

CONTRACT SUMMARY SHEET

<input checked="" type="checkbox"/> NEW CONTRACT <input type="checkbox"/> AMENDMENT #		<input checked="" type="checkbox"/> FA <input type="checkbox"/> GR <input type="checkbox"/> DP <input type="checkbox"/> RV <input type="checkbox"/> ID <input type="checkbox"/> Z <input type="checkbox"/> DG <input type="checkbox"/> NC <input type="checkbox"/> GU <input type="checkbox"/> GG <input type="checkbox"/> DL		CONTRACT NUMBER 15A 97-12461-02		RFS NUMBER 317.05002	
<input checked="" type="checkbox"/> OTHER CONTRACTING PARTY (VENDOR): Citibank, F.S.B.				<input type="checkbox"/> GRANTEE: VENDOR I.D. NUMBER: <input checked="" type="checkbox"/> V <input type="checkbox"/> C 94-0472650			
STATE AGENCY: Finance and Administration				DIVISION: Accounts			
PROGRAM CONTACT: Jack Hill FLOOR(SUITE)/BLDG.: 9th floor, Tennessee Tower TELEPHONE: (615) 532-9612				FISCAL CONTACT: Jack Hill FLOOR(SUITE)/BLDG.: 9th floor, Tennessee Tower TELEPHONE: (615) 632-9612			
ALLOTMENT CODE	COST CENTER	MAJOR & MINOR OBJECT CODE	FUND	GRANT IS ON STARS	GRANT CODE	SUBGRANT CODE	CFDA NUMBER
317.05	2109	08 3	11	<input type="checkbox"/> YES			
BEGINNING DATE: 6/15/97				TERMINATION DATE: 12/15/04			

ESTIMATED EXPENDITURES BY FISCAL YEAR BY FUNDING SOURCE:

FY	STATE	FEDERAL	INTERDEPARTMENTAL	OTHER	TOTAL CONTRACT AMOUNT INCLUDING ALL AMENDMENTS
1999		\$329,500.00			\$329,500.00
TOTAL		\$329,500.00			\$329,500.00

CONTRACT SCOPE / SERVICE DESCRIPTION:

The above estimated expenditure represents total costs for the Department of Health to conduct a WIC Program EBT pilot should the department so decide.

CHECK ONE FOR EACH CATEGORY:

- ☐ FISCAL YEAR FUNDING IS STRICTLY LIMITED.
☒ FUNDS MAY ROLL FORWARD TO SUBSEQUENT FISCAL YEARS WITHIN THE CONTRACT TERM.
☐ VENDOR IS ALREADY SET UP IN STARS ON ACH.
☒ VENDOR ACH FORM IS ATTACHED.
☐ CURRENT FORM W-9 INFORMATION IS ON FILE IN ACCOUNTS.
☒ A FORM W-9 IS ATTACHED.

APPROVED BY FISCAL OFFICER:

COMPLETE FOR AMENDMENTS ONLY:

SIGNATURE: <i>William D. Buntin</i> DATE: <i>7/11/97</i>		ORIGINAL CONTRACT AND PRIOR AMENDMENTS	THIS AMENDMENT
		TERMINATION DATE:	
OCA USE ONLY:		FY / FUNDING:	
		TOTAL:	

JUL 23 1997

CONTRACT SUMMARY SHEET

<input checked="" type="checkbox"/> NEW CONTRACT <input type="checkbox"/> AMENDMENT #		<input type="checkbox"/> FA <input type="checkbox"/> GR <input type="checkbox"/> DP <input type="checkbox"/> RV <input type="checkbox"/> ID <input type="checkbox"/> Z <input type="checkbox"/> DG <input type="checkbox"/> NC <input type="checkbox"/> GU <input type="checkbox"/> GG <input type="checkbox"/> DL		CONTRACT NUMBER		RFS NUMBER	
<input checked="" type="checkbox"/> OTHER CONTRACTING PARTY (VENDOR): <div style="text-align: center;">Citibank, F.S.B.</div>				<input type="checkbox"/> GRANTEE: VENDOR I.D. NUMBER: 94.0472650			
STATE AGENCY: Department of Human Services				DIVISION: Family Assistance			
PROGRAM CONTACT: Greg Turner FLOOR(SUITE)/BLDG.: 15th floor, Citizens Plaza TELEPHONE: (615) 313-5617				FISCAL CONTACT: Greg Turner FLOOR(SUITE)/BLDG.: 15th floor, Citizens Plaza TELEPHONE: (615) 313-5617			
ALLOTMENT CODE	COST CENTER	MAJOR & MINOR OBJECT CODE	FUND	GRANT IS ON STARS	GRANT CODE	SUBGRANT CODE	CFDA NUMBER
345.30	137	083	11	<input type="checkbox"/> YES			
BEGINNING DATE: 6/15/97				TERMINATION DATE: 12/15/04			

ESTIMATED EXPENDITURES BY FISCAL YEAR BY FUNDING SOURCE:

FY	STATE	FEDERAL	INTERDEPARTMENTAL	OTHER	TOTAL CONTRACT AMOUNT INCLUDING ALL AMENDMENTS
1997	\$ 0.00	\$ 0.00			\$ 0.00
1998	\$ 0.00	\$ 0.00			\$ 0.00
1999	\$450,900.00	\$450,900.00			\$901,800.00
2000	\$1,827,150.00	\$1,827,150.00			\$3,654,300.00
2001	\$1,913,650.00	\$1,913,650.00			\$3,827,300.00
TOTAL					

CONTRACT SCOPE / SERVICE DESCRIPTION:

Provide EBT delivery of Food Stamp and TANF benefits (The state will not be billed for services until fiscal year 1999).

CHECK ONE FOR EACH CATEGORY:

- ☐ FISCAL YEAR FUNDING IS STRICTLY LIMITED.
☒ FUNDS MAY ROLL FORWARD TO SUBSEQUENT FISCAL YEARS WITHIN THE CONTRACT TERM.
☐ VENDOR IS ALREADY SET UP IN STARS ON ACH.
☒ VENDOR ACH FORM IS ATTACHED.
☐ CURRENT FORM W-9 INFORMATION IS ON FILE IN ACCOUNTS.
☒ A FORM W-9 IS ATTACHED.

APPROVED BY FISCAL OFFICER:

COMPLETE FOR AMENDMENTS ONLY:

<div style="font-family: cursive; font-size: 1.2em;">Sheila Burr</div> <div style="display: flex; justify-content: space-between;"> <div>SIGNATURE</div> <div>DATE: 7/3/97</div> </div>		ORIGINAL CONTRACT AND PRIOR AMENDMENTS	THIS AMENDMENT
	TERMINATION DATE:		
	FY / FUNDING:		
	TOTAL:		

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<input checked="" type="checkbox"/> NEW CONTRACT <input type="checkbox"/> AMENDMENT #		<input type="checkbox"/> FA <input type="checkbox"/> GR <input type="checkbox"/> DP <input type="checkbox"/> RV <input type="checkbox"/> ID <input type="checkbox"/> Z <input type="checkbox"/> DG <input type="checkbox"/> NC <input type="checkbox"/> GU <input type="checkbox"/> GG <input type="checkbox"/> DL				CONTRACT NUMBER		RFS NUMBER	
<input checked="" type="checkbox"/> OTHER CONTRACTING PARTY (VENDOR): <input type="checkbox"/> GRANTEE:						VENDOR I.D. NUMBER: 94.0472630 <input checked="" type="checkbox"/> V <input type="checkbox"/> C			
Citibank, F.S.B.									
STATE AGENCY: Department of Human Services						DIVISION: Family Assistance			
PROGRAM CONTACT: Greg Turner FLOOR(SUITE)/BLDG.: 15th floor, Citizens Plaza TELEPHONE: (615) 313-5617						FISCAL CONTACT: Greg Turner FLOOR(SUITE)/BLDG.: 15th floor, Citizens Plaza TELEPHONE: (615) 313-5617			
ALLOTMENT CODE	COST CENTER	MAJOR & MINOR OBJECT CODE	FUND	GRANT IS ON STARS	GRANT CODE	SUBGRANT CODE	CFDA NUMBER		
345.30	137	08	11	<input type="checkbox"/> YES					
BEGINNING DATE: 6/15/97				TERMINATION DATE: 12/15/04					

ESTIMATED EXPENDITURES BY FISCAL YEAR BY FUNDING SOURCE:

FY	STATE	FEDERAL	INTERDEPARTMENTAL	OTHER	TOTAL CONTRACT AMOUNT INCLUDING ALL AMENDMENTS
2002	\$1,750,150.00	\$1,750,150.00			\$3,500,300.00
2003	\$1,750,150.00	\$1,750,150.00			\$3,500,300.00
2004	\$1,750,150.00	\$1,750,150.00			\$3,500,300.00
2005	\$729,050.00	\$729,050.00			\$1,458,100.00
TOTAL	\$10,171,200.00	\$10,171,200.00			\$20,342,400.00

CONTRACT SCOPE / SERVICE DESCRIPTION:

Provide EBT delivery of Food Stamp and TANF benefits (The state will not be billed for services until fiscal year 1999).

CHECK ONE FOR EACH CATEGORY:

<input type="checkbox"/> FISCAL YEAR FUNDING IS STRICTLY LIMITED.
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APPROVED BY FISCAL OFFICER:

COMPLETE FOR AMENDMENTS ONLY:

SIGNATURE: <u>Sheila Burr</u> DATE: <u>7/3/97</u> OCA USE ONLY:		ORIGINAL CONTRACT AND PRIOR AMENDMENTS	THIS AMENDMENT
	TERMINATION DATE:		
	FY / FUNDING:		
	TOTAL:		

**CONTRACT
BETWEEN THE
DEPARTMENT OF FINANCE AND ADMINISTRATION
STATE OF TENNESSEE
AND
CITIBANK, F.S.B.**

This Contract, by and between the State of Tennessee, Department of FINANCE AND ADMINISTRATION, hereinafter referred to as the State, and CITIBANK, F.S.B., hereinafter referred to as the Contractor, is for the provision of Electronic Benefits Transfer (EBT) system development, implementation, testing, and ongoing operations services as further defined in the "SCOPE OF SERVICES," below.

A. SCOPE OF SERVICES:

1. Incorporation of additional documents into the Contract. Included in this contract by reference are the following documents (the "Documents"):
 - a. The Contract document, its attachments, and appendices.
 - b. *Tennessee EBT Waiver Requests*, as they may be subsequently amended or revoked: the document stamped February 9, 1996.
 - c. *EBT Standard Terms and Conditions*: the document entitled "EBT Standard Terms and Conditions." dated February 1, 1996.
 - d. *Southern Alliance of States ("SAS") Clarifications Document*: the document entitled "SAS Clarifications." dated January 23, 1996.
 - e. Contractor's obligations described in the *amendments to the I.E.I.*: the document entitled "Invitation for Expressions of Interest to Acquire EBT Services for the Southern Alliance of States," issued by the U.S. Treasury and dated August 18, 1995. Evaluation Version Incorporating Amendments. Volumes I and II.
 - f. Contractor's obligations described in the *I.E.I. Question and Answer Documents*: the U.S. Treasury-SAS Questions and Answers document, dated August 24, 1995.
 - g. Contractor's obligations described in the *Invitation for Expression of Interest to Acquire EBT Services for the Southern Alliance of States (I.E.I.)*: the document entitled "Invitation for Expression of Interest to Acquire EBT Services for the Southern Alliance of States," issued by the U.S. Treasury and dated March 9, 1995. Volumes I and II. Version 3.0.
 - h. Contractor's obligations described in the *Quest Operating Rules*, as amended from time to time.
 - i. Contractor's obligations described in the *Contractor's BAFO pricing*: the document entitled "Best and Final Offer," submitted by the Contractor in response to FMS's written request.
 - j. Contractor's obligations described in the *Contractor's Original Proposal*: the Response to the I.E.I., submitted by the Contractor, dated August 24, 1995, comprising the following:
 - Volume I--Technical Response
 - Executive Summary
 - Book I--State Administered Statement of Work
 - Book II--Direct Federal Statement of Work
 - Book III--Settlement Service Statement of Work
 - Book IV--Special Supplemental Food Program for Women, Infants, and Children (WIC) Feasibility Test
 - Book V--Management Plan
 - Book VI--Project Plan
 - Book VII--System Design and Operation
 - Book VIII--System Integrity and Security

Volume II--Pricing Response

The Documents are given the same force and effect as if herein set out in full text. In the event of a discrepancy, ambiguity, or conflict regarding the Contractor's duties, responsibilities, and performance under this Contract, the Documents shall govern in order of precedence presented above; provided, however, that all applicable federal and/or State law, as amended from time to time, shall prevail over the Documents.

2. The Contractor's duties, responsibilities, and performance under this Contract shall be as described in the Documents.
3. The State will assign a single individual for indicating acceptance of deliverables and for conveying project-related decisions to the Contractor. This will be the State of Tennessee EBT Project Director unless otherwise so designated.
4. Within 45 days of the execution of the contract, and biweekly thereafter (unless the State determines and the Contractor agrees to longer periods), the Contractor shall develop, maintain, and provide to the State a work plan specific to EBT project efforts in Tennessee. Since the work plan will be updated on a regular basis, the latest version of the work plan, after it is approved by the State, supersedes all previous versions.
5. In addition to the deliverables described elsewhere in the documents, the Contractor shall produce, in accordance with agreed-upon deliverable due dates, the following deliverables, each of which shall be specific to the State of Tennessee reflecting the general needs of the State of Tennessee as set forth in the Documents, and such other special needs of the State of Tennessee as are agreed between the parties:
 - a. Project Work Plan
 - b. Pilot and Implementation Plan
 - c. Functional Requirements and Design Specifications
 - d. Detail Design Document
 - e. Life Cycle Test Plan
 - f. Back-up and Recovery Plan
 - g. System Security Plan
 - h. Retailer Marketing and Implementation Plan
 - i. Cash Access Plan
 - j. System Acceptance Test Plan
 - k. Network Performance Test Plan
 - l. System Stress Test Plan
 - m. Interface Test Plan
 - n. Automated Response Unit (ARU) test plan
 - o. Third Party Processor Agreement
 - p. Core Training Material
 - q. Retailer Marketing Video
6. Deliverable Review.
 - a. All deliverables described herein will be produced specifically for the State of Tennessee. The State of Tennessee is in no way bound to the deliverable approval schedules of the SAS or any of its component states.
 - b. The Contractor will provide the State with seven (7) draft (for review purposes) and three (3) final hard (paper) copies of all deliverables. In addition to the hard copies, the Contractor shall also provide all deliverables that lend themselves to presentation in a word processing electronic format in Microsoft Word for Windows and/or Word Perfect, at the release level defined by the State at the time of delivery. Deliverables such as software, computer files, reports, etc., shall be delivered in an electronic format consistent with the State's Technical Architecture to the extent possible.
 - c. The Contractor shall allow the State twenty (20) calendar days to review each deliverable. This represents the maximum amount of time the State will have to review each deliverable. The state will review each deliverable promptly. The deliverable review time frame does not begin until all copies of the deliverable have been received at State's project site.

- d. The State reserves the right to return any deliverable at any stage in the review process if that deliverable is found to contain an inordinate amount of errors. Substantive errors will have a lower threshold than cosmetic errors, but either may result in the State's rejection of a deliverable. In the event that a deliverable is rejected for errors, the Contractor shall correct any errors noted by the State; apply its (the Contractor's) own quality control procedures to the full document, correcting any errors found; and resubmit, within the time frame defined by the State, the corrected deliverable to the State for review. The State shall have the full number of calendar days (i.e., 20) to review the resubmitted deliverable.
 - e. At the beginning of each phase of the State project, a "Deliverables Planning Document" (DPD) shall be produced. This document shall formalize the expectations of both the State and the Contractor with regard to all deliverables to be produced in a given phase. At the beginning of each new project phase, the Contractor shall produce and submit for the State's approval an outline of each required deliverable, including, at a minimum, a complete Table of Contents (TOC). This documentation shall constitute the DPD and shall serve as a basis for the form and content of each deliverable. The DPD is a working document; if necessary, and with the concurrence of both parties, it may be modified throughout the project phase.
 - f. For any deliverables that were produced for a previous phase, and then iteratively amended as the project progresses, the Contractor shall also include a summary indicating the updates and additions pertinent to the phase. This summary shall be in addition to the complete updated deliverable, which will be due at the end of the phase.
 - g. Any deliverable not compliant with the Deliverables Planning Document will be returned to the Contractor for modifications. Any deliverable received by the Contractor for revision must be modified and returned to the State within the time frame defined by the State. If the Contractor fails to meet such time frames, or acceptance of deliverable is not achieved, the State may avail itself of any remedies described herein.
7. In addition to EBT system tests described elsewhere in the documents, the Contractor shall conduct, in accordance with agreed-upon due dates and consistent with the relevant test plans, the following EBT system tests, each of which shall be specific to the State of Tennessee:
 - a. Life Cycle Test
 - b. System Security Test
 - c. Network Performance Test
 - d. Interface Test
 - e. Automated Response Unit Test
 8. At least biweekly, or more frequently at the State's request, the Contractor's State Project Director shall meet with the State, at the State's EBT Project Site, and shall report the status of the EBT Project.
 9. The Contractor and the State will work toward the following target dates:
 - Complete Detail Design -- 90 days after State signature of contract
 - Confirm Detail Design -- 120 days after State signature of contract
 - Detail Design Final Sign-Off -- 120 days after State signature of contract
 - Live Demonstration-- July 15, 1998
 - Begin EBT Pilot -- September 1, 1998
 - Begin Statewide EBT Roll-Out -- February 1, 1999
 - Complete Statewide EBT Roll-Out -- September 1, 1999
 10. The Contractor understands that the dates expressed in Paragraph A.9 are target dates; depending upon availability of state staff or other State-specific issues, the State reserves the right to make adjustments..
 11. State staff will not be required to travel away from the State of Tennessee's EBT Project Site in order to support or contribute in any way whatsoever to the EBT system design and development efforts. All work performed pursuant to this Contract requiring the direct participation of State staff will be performed on-site in Tennessee. The sole exceptions to this provision are as follows:

- a. Out-of-state travel to support initial design efforts (not more than one trip, lasting not over five (5) business days).
 - b. Out-of-state travel to support the Acceptance Test (not more than one trip, lasting not over five (5) business days).
 - c. In-state travel required to support system testing, training, pilot, and Statewide roll-out tasks; in such cases, the determination of appropriate staffing and reasonable travel shall be made by the State.
 - d. In the event that additional travel is requested of the State staff, the request must be reasonable and be mutually agreed to by the State and Contractor.
12. The State's EBT Project Site for the Department of Human Services (DHS) shall be as follows:

15th Floor
Citizens Plaza Building
400 Deaderick Street
Nashville, TN 37248

13. All deliverables produced pursuant to this Contract shall be sent to the following address:

State of Tennessee EBT Project Manager
Department of Finance and Administration
9th Floor
Tennessee Tower Building
312 8th Avenue North
Nashville, TN 37243-1510

B. PAYMENT TERMS AND CONDITIONS:

1. In no event shall the maximum liability of the State under this contract exceed Twenty million, six hundred seventy-one thousand, nine hundred dollars (\$20,671,900). This amount shall constitute the Contract Price and the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, hours worked, or materials or equipment required. The Contract Price includes, but is not limited to, all applicable taxes, fees, overheads, profit, travel expenses, and all other direct and indirect costs incurred or to be incurred, by the Contractor.
2. The maximum liability of the State under this Contract is firm for the duration of the Contract and is not subject to escalation for any reason, unless amended in writing. In the event the State's maximum liability for services rendered by Contractor hereunder will be exceeded by further provision of services, Contractor may suspend work until such time this agreement is amended to permit additional liability to be incurred by the State.
3. With the exception of price reductions, all prices presented in the Documents shall be firm and fixed for the life of the contract, as extended.
4. Per Case/Per Month pricing. For EBT Core Services, the Contractor shall charge the State for its active EBT cases in accordance with the following provisions. "Active EBT cases" is defined as the total number of "active" cases, as defined in Section E.25, present at a given point in the measurement month. In the event of a dispute as to the total number of active cases, the Contractor shall bill the State for the number of active cases reported by the State, subject to the Contractor's right to appeal these State-supplied figures through the "Dispute Resolution Process," as described in Paragraph E.11. The State shall be billed for Core Services in accordance with the following provisions:
 - a. The Single Price, shown on page 2 of the *BAFO*, as modified by the *SAS Clarifications Document*, shall apply during the Pilot and shall continue to apply until one of the conditions of Paragraph B.4.b is met.
 - b. The 1-2 million caseload pricing tier, shown on page 4 of the *BAFO*, as modified by the *SAS Clarifications Document*, shall apply when either of the following two conditions are met:
 - i. The SAS active caseload volume falls within the range of 1-2 million cases; or

- ii. Six SAS states have begun Statewide Roll-Out (i.e., recipients are receiving electronic benefits and active case-months can be charged to the State). Training for Statewide Roll-Out is not considered actual Statewide Roll-Out for these purposes.
- c. If, at any time following the beginning of Statewide Roll-Out in Tennessee, the SAS active caseload volume, having actually reached one (1) million cases, for whatever reason, falls below 1 million cases, the Contractor shall charge the State the prices appearing on the Single Price table, page 2 of the *BAFO*, as modified by the *SAS Clarifications Document*, until such time as the SAS active caseload volume once again exceeds 1 million cases. If the SAS active caseload volume falls below 1 million cases, the State also has the option to terminate the contract without penalty or costs resulting from the termination, in accordance with the Termination for Convenience provisions in Section E.
- d. Tiered pricing, shown on pages 5 through 9 of the *BAFO*, as modified by the *SAS Clarifications Document*, will be used when the active SAS active caseload volumes reach the levels shown on those pages (i.e., the tiered pricing on page 5 will be used when the total active SAS caseload volume reaches 2 million cases; the pricing on page 6 will be used when the total active SAS caseload volume reaches 4 million cases. etc.).
5. Paragraph B.4 above notwithstanding, the price the Contractor charges to the State for the deployment of EBT-only POS equipment at FCS-authorized retailers shall be in accordance with the *SAS Clarifications Document*.
6. Cash transaction costs.
 - a. The State will pay for a total of up to two (2) transactions for POS cash-only and/or ATM withdrawals in any combination, as actually used by the recipient.
 - b. Charges to the State for POS cash-only and/or ATM withdrawals shall be as described in the *SAS Clarifications Document*.
 - c. Separate and apart from any federally subsidized transactions, upon thirty (30) calendar days written notice, the State may reduce the number of State-subsidized cash only transactions. Said written notice may be waived by Citibank. Recipients provided training materials before that change is effective shall receive at least forty-five (45) calendar days notice which notice shall include any change in charges to the recipient. The State will provide a proposed notice to Citibank for review and will then incorporate any reasonable changes requested. The State may negotiate a fee for Citibank to provide said 45 day notice. Training materials provided after the effective date of the reduction shall include that change without charge except that any actual cost of changing previously printed materials made necessary by this change shall be borne by the State.
 - d. If the State elects to reduce the number of subsidized cash only transactions to one per month, the cost of the subsidized transaction to the State will be \$0.33 per transaction for either one ATM cash or POS cash only transaction on an actual usage basis. Any additional recipient cash only transactions will be charged to the recipient account only on an actual usage basis and only as follows:
 - i. For POS cash only transactions, \$0.85 will be charged to the recipients account for the first non-subsidized POS cash only transaction in that month; no charge will be made for the second non-subsidized POS cash only transaction; \$.085 will be charged for all subsequent non-subsidized POS cash only transactions during that month on actual usage basis.
 - ii. All non-subsidized ATM cash transactions will be charged to the recipient's account at \$0.85 per transaction on an actual usage basis.
 - iii. For purposes of determining these charges each calendar month shall be a separate calculation and billing period..
 - e. If the State eliminates subsidies for cash only transactions, on the effective date of that decision the State will no longer be billed for cash only transactions made by recipients. At the time of the decision to eliminate subsidies for cash only transactions, the State will choose one of the following options for statewide implementation.

Options 1: Recipients will be charged for cash only transactions only on an actual usage basis and only as follows:

- i. For POS cash only transactions, \$0.85 will be charged to the recipient's account for the first POS cash only transaction in that month; no charge will be made for the second POS cash only transaction; \$0.85 will be charged thereafter for each subsequent POS cash only transaction on an actual usage basis.
- ii. All ATM cash transactions will be charged to the recipient's account on an actual usage basis at the rate of \$0.85 per transaction.
- iii. For purposes of determining these charges, each calendar month shall be a separate calculation and billing period.

Option 2: Recipient's will be charged for cash only transactions only on an actual usage basis and only as follows:

- i. The recipient's account will be charged on an actual usage basis per calendar month \$0.65 for the first ATM cash or POS cash only transaction, \$0.65 for the second ATM cash or POS cash only transaction, and \$0.85 for the third and subsequent ATM cash or POS cash only transactions.
- ii. For purposes of determining these charges, each calendar month shall be a separate calculation and billing period.

7. Transaction payments to retailers. The State will pay transaction fees for POS cash-only withdrawals to retailers who have purchased their own POS equipment. The State's position is that parity should exist between POS transaction fees paid to retailers and fees paid for ATM withdrawals for state cash-only withdrawals. Accordingly, the contractor shall charge the State, and pay retailers or their authorized representatives, on behalf of the State, such transaction fees as determined by the State, such transaction fees paid by the State for POS cash-only transaction up to the fee paid by the state for ATM withdrawals for state-administered cash transactions, in accordance with the IEL. Payment of the merchant fee is accounted for within the transaction fee structure and not as an additional cost to the State. It is not the State's intent to pay this fee to merchants to whom the contractor deploys EBT-only equipment; however, it is the Contractor's responsibility to ensure adequate access to cash benefits as reflected in sections E. 30 and E.31 of this contract. These transaction fees shall be paid to the Contractor, which shall then pass the full amount of the payments on to the retailers, or their authorized representatives. The Contractor, however, is responsible for payment of these fees. This fee shall be included in the transaction fee described in Section B.6. above, and shall not be in addition to this fee. The State will cease to pay this fee when the client has exceeded the POS cash-only and/or ATM State-subsidized maximum.
8. The State will also compensate the Contractor for the following optional services:

- a. For Off-Line Data Storage (see Section E.19), the State will pay the Contractor \$0.50 per retrieval request, with no charge for retrievals during the first six (6) months that a given case is inactive. Notwithstanding anything else stated herein to the contrary, there will be no charge for reasonably necessary data retrievals performed for auditing purposes.

9. WIC Costs. If the State chooses to go forward with the WIC Pilot, the following provisions shall apply:

- a. For the performance of the WIC feasibility test, as described in the Documents, the Contractor shall be compensated \$237,000. The invoice process for the WIC feasibility test will be agreed to by the Contractor and the State before the feasibility test is initiated. The process will include payments for milestones reached within the feasibility test.
- b. The Per Case/Per Month cost to maintain statewide WIC EBT services, during the Feasibility Study and throughout Statewide Roll-Out and Ongoing Operations shall be \$1.209; the cumulative total Per Case/Per Month charges over the full term of the Contract shall not exceed \$92,488, unless amended.

10. Change Order Payments.

- a. Change orders shall be processed in accordance with Section E.18, below. If there is to be any cost to the State associated with a Change Order, the Contractor shall propose a fixed-cost to deliver the requested Change and shall not invoice the State for more than this fixed-cost.

- b. For all work associated with Change Orders, the Contractor shall be compensated at the unit rates listed below:

<u>PERSONNEL TYPE</u>	<u>HOURLY RATE</u>
Tech. Director/Business Consultant	\$110.00
Tech. Project Leader	\$95.00
Data Base Analyst	\$65.00
Training Specialist	\$60.00
Senior Systems Analyst	\$85.00
Systems Analyst/Programmer	\$65.00
Training Coordinator	\$40.00

The unit rates in this Paragraph are firm for the duration of the Contract and are not subject to escalation for any reason, unless amended in writing.

- c. Invoices for Change Orders must be in form and substance acceptable to the State and may be submitted upon the State's written acceptance of the change(s). Notification of acceptance and the signed Change Order cost statement must accompany all such invoices. Notwithstanding any provision herein to the contrary, payment(s) for approved cumulative Change Orders shall not exceed \$2,067,200. If additional modifications are needed after the cumulative cost ceiling has been reached, the State shall, at its sole option, amend the contract for the additional Change Order money; provided, however, that such an amendment would in no way impact the fixed unit rates of Paragraph B.10.b above, which remain fixed for the life of the Contract.
11. Compensation to the Contractor for travel, meals, and/or lodging shall be provided only in the case of travel that is the direct result of Change Order requests. Travel-related expenses shall be in the amount of actual costs, subject to maximum amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time. Billable travel expenses are limited to travel to and from Tennessee and accommodations therein. Any travel expenses paid by the State shall accrue against the cumulative Change Order cap specified in Paragraph B.10.c.
12. Allowable Charges. Payment(s) to the Contractor shall be made only after receipt of an invoice(s) for actual services performed. Notwithstanding anything else in this Contract to the contrary, the State shall only be responsible for payments for the following products or services:
- Per Case/Per Month charges for EBT Core Services, and charges for State-subsidized cash-only transactions as actually used by clients.
 - Additional incremental Per Case/Per Month charges for the Deployment of EBT-only POS equipment, as described in the *SAS Clarifications document*.
 - Payments to retailers and/or Financial institutions for cash only withdrawals, to be paid to the Contractor and passed through to the retailers and/or Financial institutions or their authorized representatives. The contractor has responsibility for this payment.
 - Charges for the following optional service: Off-Line Data Storage.
 - In the event that the State chooses to go forward with the WIC pilot, charges for the WIC Feasibility Study and ongoing Per Case/Per Month charges to maintain WIC services.
 - Change Order charges, as approved by the State.
 - Contractor personnel travel expenses necessitated by State-approved Change Order work.
13. Invoices. The Contractor shall submit all invoices, in form and substance reasonably acceptable to the State, with all of the reasonably necessary supporting documentation, prior to any reimbursement of allowable costs. All recurring invoices will be submitted no more often than monthly.

- a. The Contractor shall submit to the designated State EBT Project Director an original and three (3) copies of an itemized invoice following the end of each month for which services are provided under this contract.
 - b. Invoices shall include, but not be limited to, the following information:
 - i. Contractor's name and date of invoice.
 - ii. Contract number and amendment, Change Order Written Approval to Proceed, or other State authorization for the delivery of products or services.
 - iii. An itemized description and price of services actually delivered, broken out by the smallest geographic area possible.
 - iv. Active Cases by Category for Food Stamp only cases, TANF only cases, and combined TANF/Food Stamp cases.
 - v. The name, title, phone number, and complete mailing address of the official or office where payment is to be sent.
 - vi. Contractor's Federal Tax Identification Number.
 - c. Failure to provide the above information, and any other information that the State may reasonably request, may, at the State's option, result in the delay of payment(s) by the State, until the information has been provided.
14. The Payment of an invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the costs invoiced therein. Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute allowable costs. Any payment shall be reduced for over-payments, or increased for under-payments on subsequent invoices. The States' current payment standard is 45 days.
 15. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the parties any amounts which are or shall become due and payable to the State by the Contractor.
 16. In accordance with Section L, "Return of Funds," contained in the *EBT Standard Terms and Conditions*, should the Contractor not make repayments to the State in a timely manner, the State will charge monthly interest at a rate of one and one-half percent (1 1/2 %) on the outstanding balance.
 17. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposits (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor, all payments to the Contractor, under this or any other contract the Contractor has with the State, shall be made through the State's Automated Clearing House wire transfer system. The Contractor shall not commence work or invoice the State for services until the Contractor has completed this form and submitted it to the State. The debit entries to correct errors authorized by the "Authorization Agreement for Automatic Deposits Form" shall be limited to those errors detected prior to the effective date of the credit entry. The remittance advice shall note that a correcting entry was made. All corrections shall be made within two banking days of the effective date of the original transaction. All other errors detected at a later date shall take the form of a refund, or in some instances, an additional billing if additional payments are to be made.
- C. TERM:
1. This Contract shall be effective for a period of seven (7) years, six (6) months, commencing on June 15, 1997, and shall end on December 15, 2004. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- D. STANDARD TERMS AND CONDITIONS:
1. The State is not bound by this Contract until it is approved by the appropriate State officials as indicated on the signature page of this Contract.

2. This Contract may be modified only by a written amendment which has been executed and approved by persons thereunto duly authorized by the parties herto..
3. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, in substance, as determined by the State, Paragraphs D.5 and D.6 of this Contract.
4. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
5. No person on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal and/or Tennessee State constitutional and/or statutory law shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of the Contract or in the employment practices of the Contractor and its subcontractor(s). The Contractor and its subcontractor(s) shall, upon request, show compliance with policies, and shall post in conspicuous places, available to all employees and applicants, notices of non-discrimination. In addition, the Contractor and its subcontractor(s) shall submit, on an annual basis, an implementation plan showing how the Contractor is complying with the requirements of Title 6 of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990, P.L. 101-336.
6. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records and documents of the Contractor, insofar as they relate to money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment, and shall be subject to audit, at any reasonable time and upon reasonable notice, by the State agency or the Comptroller of the Treasury or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
7. The Contractor, being an independent Contractor, agrees to carry adequate public liability and other appropriate forms of insurance; and, upon the State's request, shall provide proof of such insurance.
8. The Contractor agrees to pay all taxes incurred in performance of the Contract.
9. The State shall have no liability except as specifically provided in the Contract.
10. The Contractor shall comply with all applicable federal and State laws and regulations in the performance of the Contract.
11. The Contract shall be governed by the laws of the State of Tennessee.

E. SPECIAL TERMS AND CONDITIONS:

1. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall prevail. The Contractor's rights in case of Breach and/or Termination are stated in T.C.A. 9-8-101, etc., as amended.
 2. Remedies. The State may seek remedies for breach and/or at its sole option, terminate the contract in accordance with the following provisions:
 - a. The Contractor shall be deemed to have breached the Contract if any of the following occurs:
 - i. failure to perform in accordance with any material term or provision of the Contract;
 - ii. partial performance of any material term or provision of the Contract;
 - iii. any material act prohibited or restricted by the Contract.
- For the purposes of this Contract, items i. through iii. shall hereinafter be referred to as "Breach."

- b. In the event of a Breach by the Contractor, the State shall have available the following remedies as described further herein:
- i. actual damages and any other remedy available at law or equity;
 - ii. liquidated damages;
 - iii. temporary withhold of payment;
 - iv. partial default; and/or
 - v. termination of the Contract
- c. In the event of Breach by the Contractor, the State, except as otherwise provided in this paragraph, shall provide the Contractor a reasonable opportunity in which to cure such Breach. Upon occurrence of Breach, the State shall provide Contractor written notice of Breach, and if Breach is not incapable of cure as herein defined, a reasonable period of time in which to cure the Breach. The Contractor shall promptly commence to implement the cure diligently and in good faith. In the event the Contractor fails to cure the Breach within the period of time provided, the State shall have available any and all remedies described herein. In the event the State elects to invoke liquidated damages and a cure period has been agreed to or in any event no less than that offered by the State, said liquidated damages shall commence on the date the cure period expires. If it is determined that the Contractor has concealed, misled or failed to make reports as required, the liquidated damages shall commence on the date of the Breach.

A Breach shall be deemed incapable of cure if the Breach is such that the Contractor, within a reasonable period of time after notice of the Breach, cannot cure the Breach, resulting in the lack of substantial realization of the purpose of the contract. If the State deems the Breach incapable of cure, the State may, upon written notice, terminate the Contract immediately, or in stages as is reasonable necessary to permit an orderly transition of services to another service provider.

- d. Notwithstanding any provision herein to the contrary, in the event the Breach in any way, whether directly or indirectly, either
- i. materially interferes with any client's ability to access his or her benefits in a timely manner, as defined by the benefit availability and system performance requirements (hereinafter referred to as "System Performance Requirements") specified in the Documents, including, but not limited to, access in retailer facilities; or
 - ii. materially impairs the ability of a caseworker to provide timely service to his or her clients, as defined by the System Performance Requirements specified in the Documents.

then the following shall be applicable:

- a) upon receipt of the notice requesting a cure, the Contractor shall commit all resources needed to effect the cure in the shortest possible amount of time, which resources include, but are not limited to, personnel, overtime, services, materials, equipment, software, and hardware;

Failure to cure as described in E.2.c above may be cause for termination as described herein.

- e. Actual Damages. In the event that the State sustains any claims, damages, system performance-related costs, losses, suits, or costs, including attorneys' fees (collectively, "Damages") as a result of the Breach, the State may, at its sole option:
- i. permanently withhold payments to recover such Damages; and/or
 - ii. pursue, in the courts of Tennessee, just compensation from the Contractor for such Damages.

f. Liquidated Damages.

- i. In the event of a Breach by the Contractor described in Appendix A, the State may withhold as liquidated damages the amounts designated in Appendix A from any amounts owed to the Contractor.
- ii. The State shall notify the Contractor in writing of the Breach and the amounts to be withheld as liquidated damages.
- iii. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by the Contractor designated in Appendix A, as said amounts are likely to be uncertain and not easily proven. The Contractor hereby represents and covenants that it has carefully reviewed the liquidated damages contained in Appendix A and agrees that said amounts are the liquidated damages resulting from negotiation between the parties.
- iv. It is hereby agreed between the parties that the liquidated damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with the Contractor and do not include:
 - a) any injury or damage sustained by a third party, and the Contractor agrees that the liquidated damage amount is in addition to any amount the Contractor may owe the state pursuant to the indemnity provision contained herein or otherwise; and
 - b) The State shall permanently retain all liquidated damages.
- v. The State is not obligated to assess liquidated damages before availing itself of any other remedy.
- vi. The State may chose to discontinue liquidated damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, the Contractor shall receive a credit for said liquidated damages previously withheld except in the event of a Partial Default.

g. Partial Default.

- i. In the event of a Breach by the Contractor, the State may declare a Partial Default.
- ii. If the Contractor fails to cure the Breach within the time period described herein, then the State may declare a Partial Default and provide written notice to the Contractor of the following:
 - a) the date upon which the Contractor shall terminate providing the service(s) associated with the Breach; and
 - b) the date the State will begin to provide the service associated with the Breach.The State may revise the time periods contained in the notice upon written notice to the Contractor.
- iii. In the event the State declares a Partial Default, the State may withhold from the amounts due the Contractor the greater of:
 - a) amounts which would be paid the Contractor to provide the defaulted services required herein; or
 - b) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party, together with any other damages associated with the Breach.
- iv. To determine the amount the Contractor is being paid for any particular service, the State shall review all documentation required of the Contractor. The Commissioner of Finance and Administration (F&A) or his designee shall make the final and binding determination of said amount.
- v. The State may assess liquidated damages against the Contractor for any failure to perform which ultimately results in a Partial Default, with said liquidated damages to cease when said Partial Default is effective.
- vi. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- vii. The Contractor agrees to cooperate fully with the State in the event a Partial Default is taken.

h. Partial Takeover in Case of Partial Default.

- i. The State may, exercise a partial takeover of any service which the contractor is found to be in Partial Default.
- ii. The Contractor shall be given at least thirty (30) days prior written notice of said Partial Takeover, with said notice to specify the areas of service the State will assume and the date of assumption.
- iii. Any Partial Takeover by the State shall not alter in any way the Contractor's other obligations under this Contract.
- iv. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the services as determined by the State. The amount due the Contractor shall be so reduced as of the date the State assumes the service.
- v. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- vi. In the event of a termination, the Contractor shall be liable to the State for any and all Damages incurred by the State including but not limited to all expenses incurred by the State to implement EBT which exceed the amount the State would have paid the Contractor under this Contract.
- vii. In the event the State sustains Damages upon termination, the State may withhold any amounts which may be due the Contractor, for any claims, damages, system performance-related costs, losses, suits or costs (including attorney's fees) without waiver of any other remedy or damages available to the State at law or at equity.

i. General Termination Provisions.

- i. In the event of a Breach by the Contractor, the State may, at its sole option: give the Contractor an opportunity to cure the Breach; or terminate the Contract, either immediately or in stages.
 - ii. The Contractor shall be notified of the termination in writing signed by the Commissioner of F&A. Said notice shall hereinafter be referred to as Termination Notice.
 - iii. As reasonably necessary to permit an orderly transition of services to another provider, the Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages.
 - iv. The Contractor agrees to cooperate with the State in the event of a termination, Partial Default or Partial Takeover.
 - v. If the State terminates the Contract for Breach, the State reserves the right to obtain the equipment, software, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the State deems appropriate and charge the Contractor for any additional costs incurred thereby.
- j. Termination or Suspension Due to Unavailability of Funds. The Contract is subject to the appropriation and availability of State and/or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to, at its sole discretion, either terminate or suspend the Contract upon written notice to the Contractor. Said termination or suspension shall not be deemed a Breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to reimbursement for all satisfactory and authorized services completed as of the termination or suspension date.

Notwithstanding the forgoing, the agreement will continue in full force and effect during any period of sixty (60) days or less wherein funds are temporarily unavailable either from state or federal funding sources. Citibank understands and agrees that any services provided prior to federal approval shall be at Citibank's risk.

- k. Termination for Convenience.
- i. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor thirty (30) days written notice prior to termination of this Contract.
 - ii. The State may terminate the Contract for convenience until the begin date of the EBT Pilot without liability under the Contract and at no cost. Thereafter, the Contractor shall only be entitled to receive compensation for satisfactory authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for reimbursement for any service which has not been rendered. Neither shall the State be liable for any services or portions of services provided for, and/or costs related exclusively to, any other state's EBT project.
- l. Termination for Bankruptcy or Insolvency. Upon filing of any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor must notify the State EBT Project Director immediately. Upon learning of actions herein identified, the State reserves the right to terminate the Contract or to affirm the Contract and hold the Contractor liable for Damages, if any. The State shall not be liable for any penalties or costs resulting from such a termination.
- m. Termination as a Result of 12 CFR Part 205 ("Regulation E") Application. In the event that EBT falls under the provisions of 12 CFR Part 205 ("Regulation E") as determined by the State, the State may terminate the Contract without penalties or costs resulting from the termination. Notwithstanding the foregoing, the State reserves the right to negotiate lower prices (as contained in the Contractor's EBT Pricing schedule) for Regulation E coverage and services prior to or at the time of Regulation E application.
- n. Termination for Unsatisfactory Pilot. In the event that the results of the EBT pilot are not satisfactory as determined by the State, the State may terminate the Contract without penalty or costs resulting from the termination. The evaluation by the Department shall include but shall not be limited to cost effectiveness, compliance with technical specifications, and acceptance by clients, merchants, and the financial community.
- o. Deliverable Incorporation. Upon state acceptance of any deliverable, the deliverable becomes part of the contract, and a failure to carry out activities described in the deliverable, shall, at the State's discretion, be considered breach of contract.
3. Breach, Termination, and Suspension Notices. Regardless of the cause, Notices of Breach, Termination, or Suspension shall be given to the Contractor in accordance with Paragraph E.12. For Notices of Breach or Suspension, the date of notice or notification shall be the effective date as described in Paragraph E.12. For Notices of Termination, the effective date of the termination shall be the effective date as described in Paragraph E.12. Provided, however, that any notice may name a date certain in the future as its effective date.
4. Termination and Liability. If the State terminates for Unavailability of Funds, Reg E Application, or Termination for Convenience, the State shall not be liable for any damages, losses, suits, anticipated profits, or any other costs, including attorneys' fees, sustained by the Contractor, as well as its officers, agents, or employees, as a result of the Termination prior to Contract expiration.
5. Alternate Sources of Similar Services Allowed. In the event of Contract termination for Breach, or Unsatisfactory Pilot, the Contractor shall not limit the State's ability to obtain the same or similar services from any other source, including without limitation, sources that were formerly subcontractors of Contractor under this Contract.
6. Termination and Transfer of Title. Upon termination, the Contractor shall transfer title to the State (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the State all software developed or modifications to software, files, data, manuals, or other documentation, in any form, that are complete or under development pursuant to the terms of the Contract at the time of the Contractor's receipt of the notice of termination, regardless of the status of completion.
7. Performance/Management Reports.
- a. The Contractor shall deliver the reports described in Appendix B.

- b. The State retains the flexibility, until Detail Design Final Sign-off, to define Performance or Management report formats, develop additional reports, and identify or modify the frequency of all reports issued by the Contractor, at no additional cost to the State. At the State's discretion, any report shall be delivered in either data file or formatted-for-printing format. At the States request, any report shall be delivered in a form and at such times as to render the elements of that report readily usable as "Alert(s)" on the State's eligibility system(s); the "hot card" report is one such example

8. System Performance, Performance Reports, and State's Technical Environment.

- a. During the Pilot and Statewide Roll-Out, and thereafter for the full term of the Contract, the Contractor will supply the State with System performance reports showing all facets of system performance, including, but not limited to, ARU performance, POS response times, administrative terminal response times, host-to-host batch data transfer times, and host-to-host 3270 terminal access response times. If at any time during the term of the Contract, system performance falls beneath the requirements stated in the Documents, or if host-to-host batch transfer times impair the State's ability to complete its nightly eligibility system batch runs in time for the next day's on-line processing, and the problem is not due to deficiencies in the State of Tennessee's technical environment (i.e., the State's network or host computer capacity), the State reserves the right to delay any and all payments due the Contractor pursuant to this or any other agreement between the State and the Contractor until such time as the performance problems have been corrected and/or to avail itself of other remedies described herein.

9. Suspensions, Delays, Interruptions of Work. Before the pilot begins, the State reserves the right to suspend, delay, or interrupt all or any part of the work herein described for such period of time as deemed appropriate by the State for the convenience of the State.

10. Indemnification and Liabilities.

- a. The Contractor agrees to indemnify, defend, save, and hold harmless the State, its officers, agents, and employees from:
 - i. Any claims, damages, losses, suits, or costs, including attorneys' fees, sustained by the Contractor, its officers, employees, or subcontractors, as a result of the State properly exercising remedies described herein.
 - ii. Any claims, damages, losses, suits, or costs, including attorneys' fees, associated with services rendered by the Contractor and/or any subcontractor(s), person, or firm performing or supplying services, materials, or supplies in conjunction with the performance of the Contract.
 - iii. Any claims, damages, losses, suits, or costs, including attorneys' fees, accruing or resulting to the State and/or any person or firm which may be injured or damaged as a result of acts or omissions of the Contractor relating to the Contract. The State shall give the Contractor written notice of each such claim or suit and full right and opportunity to conduct the Contractor's own defense.
 - iv. Any claims, damages, losses, suits, or costs, including attorneys' fees, accruing or resulting to any person or firm injured or damaged as a result of failure of the Contractor, its officers, agents, employees, or subcontractors to follow federal or State regulations or statutes, including but not limited to labor laws and minimum wage laws, in the performance of this Contract.
 - v. Any claims, damages, losses, suits, or costs, including attorneys' fees, accruing or resulting to any person or firm injured or damaged by the Contractor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the Contract, or by federal or State regulations or statutes.
- b. Where the Contractor and the State commit joint negligent acts, the Contractor shall not be liable for nor have any obligation to defend the State with respect to that part of the joint negligent act committed by the State. In no event shall the Contractor be liable for or have any obligation to defend the State against such claims, suits.

judgments, or damages, including costs and attorneys' fees, arising out of the sole negligent acts of the State. The Contractor agrees that it is an independent Contractor and not an agent or employee of the State.

- c. Notwithstanding anything to the contrary, the Contractor agrees to indemnify and hold harmless the State against any patent or copy infringement claim on any materials provided by the Contractor pursuant to this Contract except to the extent modified by the State or used for a purpose other than permitted by the Contractor..
 - d. The Contractor shall be liable in accordance with applicable law for injury to persons or damage to tangible property caused by Contractor's or any subcontractor's negligent performance under this Contract except for errors, omissions, or other deficiencies to the extent directly attributable to the State, the State's furnished data, or any third party.
 - e. The State of Tennessee is not liable, monetarily or otherwise, for any work performed by the Contractor or subcontractors thereof, prior to the full execution of the contract, and the Contractor and subcontractor(s) expressly waive any and all claims for services performed in expectation of the Contract prior to its execution and approval by U.S.D.A. Food and Consumer Services and H.H.S. Administration of Children and Families. Approval is considered to have occurred at the point written correspondence is received from both federal agencies confirming approval. This correspondence or document is exclusive of any preliminary approval.
 - f. In the event that the State sustains any claims, damages, system performance-related costs, losses, suits, or costs, including attorneys' fees (collectively, "Damages"), as a result of acts or omissions of the Contractor, its subcontractor(s), or agents, the State reserves the right to withhold any payments due to the Contractor for services rendered, or to be rendered; to pursue, in the courts of Tennessee, just compensation from the Contractor for such damages;
11. Dispute Resolution Process. In the event of any dispute arising during the term of the Contract concerning performance of the Contract, either party shall serve notice of such dispute on the other party. The first level of dispute resolution shall be the Commissioner of the affected State Department; for example, if the dispute relates to the delivery of TANF or Food Stamp benefits, the dispute shall first be brought before the Commissioner of the Department of Human Services. The Commissioner of Human Services will notify the Commissioner of Finance and Administration of the dispute. In the event that the Contractor does not receive satisfaction at this first level, it may appeal the decision to the Commissioner of the Department of Finance and Administration who shall render a final decision, reduce his or her decision to writing, and serve a copy on the Contractor. The decision of the Commissioner of Finance and Administration shall be final and conclusive, subject to the Contractor's right to appeal such decision, in accordance with the laws of the State of Tennessee; venue shall be in Davidson County, State of Tennessee. Pending final determination of any dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the State's direction.
12. Notice Process. Whenever, under the terms of this Contract, notice is required to be given, the same shall be given in writing by either (1) hand delivery with receipt obtained; (2) U.S. certified mail, return receipt requested; or (3) in exigent cases, as determined by the State, by facsimile, with hand delivery or mail notification to follow as described above. The effective date of said notice shall be, respectively, the date of hand delivery, the date of mailing, or the date of the facsimile transmission. Alternatively, any notice may name as an effective date a date certain in the future. For the purpose of giving notice under this Contract, State's and Contractor's names and addresses are respectively:

Mr. John D. Ferguson, Commissioner
(or current Commissioner)
Department of Finance and Administration
1st Floor, State Capitol
Nashville, TN 37243-0001

Mr. John Simeone, State Project Manager
(or current State Project Manager, as defined)
Citibank, F.S.B.
Citibank EBT Services
6700 Citicorp Drive
Tampa, FL 33619

The Contractor's State Project Manager shall be responsible for forwarding all notices to the appropriate recipient within the Contractor's or subcontractor's organization(s). At its discretion, the State also reserves the right to notify Mr. Carlos Palomares (or the current President and CEO of Citibank, F.S.B.) at the following address:

Citibank, F.S.B. of Florida, c/o Citicorp Services
8430 W. Bryn Mawr Ave.
Chicago, IL 60631

A copy of any correspondence with Mr. Carlos Palomares (or the current President and CEO of Citibank, F.S.B.) will be sent to the State Project Manager by the State.

Notification to either of these parties is considered "notice" for the purposes of this Contract. In addition, either party shall notify the other party, in writing, of any changes to the names and addresses given in this section; such changes will not require contract amendments.

13. Assignments and Subcontractor-Related Provisions.

- a. If approved by the State in writing, the Contractor may subcontract, in accordance with Paragraph D.3, for those services described herein, provided that any subcontracts include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the Contractor and the State and to ensure that the State is indemnified, saved, and held harmless from and against any and all claims, damages, losses, suits, or costs, including attorneys' fees, of any kind related to a subcontract in those matters described in the Contract between the State and the Contractor. The Contractor shall expressly understand and agree that it shall assume and be solely responsible for all legal and financial responsibilities related to the execution of the subcontract. The Contractor also agrees and understands that the Contract shall in no way relieve the Contractor of the responsibility for providing the equipment or services as described and set forth herein. This includes maintaining continuity of all services in the event of a dispute between the Contractor and any of its subcontractors. The Contractor assumes responsibility for all services provided and delivered as stated herein.
- b. The Contractor shall not transfer any interest in the Contract, whether by assignment or otherwise, without the prior written consent of the State.
- c. The Contractor shall agree and understand that, in the event the State consents to a financial assignment of the Contract in whole or in part to a third party, any payments made by the State pursuant to the Contract, including all of those payments assigned to the third party, shall be contingent upon the performance of the Contractor in accordance with all terms, conditions, and provisions of the Contract.
- d. Upon the assignment of any interest in the Contract, both the Contractor and the assignee will be required to execute written agreements with the State substantiating the arrangement.
- e. The Contractor is the sole point of contact with regard to all contractual matters and is solely responsible for the fulfillment of this contract.
- f. The Contractor will, without additional cost to the State, correct and revise all errors or deficiencies in any Contract work, services, or products, whether provided by the Contractor or its subcontractor(s).

14. Contract Services Transitions. Upon termination of this Contract for whatever reason (expiration or termination), the Contractor shall assist the State to insure an orderly transfer of responsibility and/or the continuity of those services required under the terms of the Contract to an organization designated by the State, if requested in writing. Such assistance shall consist of the responsibilities defined in the *EBT Standard Terms and Conditions*, in addition to those described hereunder:

- a. The Contractor shall deliver, FOB destination, all records, documentation, reports, data, hard copy and electronic files, recommendations, etc., which were required to be produced under the terms of the Contract to the State and/or to the State's designee promptly and with due diligence after receipt of the written request.
- b. The Contractor shall agree to continue providing any part or all of the services in accordance with the terms and conditions of the Contract for a period not to exceed ninety (90) calendar days after the termination of the Contract for a price not to exceed those prices set forth in the Contract.

- c. The Contractor shall discontinue providing the service or accepting new assignments under the terms of this Contract, on the date specified by the State, in order to insure the completion of such service prior to the termination of the Contract.
- d. The State shall only be liable for reasonable phase-in/phase-out costs in the event of Termination for Convenience, in addition to any other costs payable E.2.k.

15. Personnel Management.

- a. During the term of this contract, and for a period of twelve (12) months after the termination of this contract, the Contractor and/or its subcontractors shall not hire or solicit to hire, either directly or indirectly, any state personnel engaged in activities associated with the services provided pursuant to this contract without the written consent of the State.
- b. During the term of this contract, and for a period of twelve (12) months after the termination of this contract, the State shall not hire or solicit to hire, either directly or indirectly, any Contractor and/or subcontractor personnel engaged in activities associated with the services provided pursuant to this contract without the written consent of the Contractor and/or its subcontractor(s).
- c. While on-site or dealing remotely with State personnel, the Contractor and subcontractor personnel shall adhere to the same policies and procedures as employees of the State, and shall confine their activities to accomplishing the activities associated with this Contract. Unless their work hours are adjusted at the State's discretion, State personnel shall adhere to standard State work hours. Holidays, etc. Note that stipulations of this paragraph in no way preclude the Contractor or its subcontractors from working overtime as they see fit to effect a timely implementation of the State's EBT system. However, the Contractor understands that the State cannot guarantee equipment and site access, and the availability of State personnel in non-standard work hours.
- d. The Contractor agrees and understands that the State's agreement to the Contract is predicated in part on the utilization of the specific individual(s) identified in the Contractor's original response to the *I.E.I.* or proposed and approved by the State in writing thereafter. The Contractor shall assign the following personnel to the State's EBT Project:

<u>Role</u>	<u>Personnel Name</u>
Project Director	John Simeone

The Contractor agrees that no substitution of the aforementioned individual(s) and/or their personnel qualifications as originally proposed in the Documents shall be made during the term of the Contract without the prior written approval of the State. Furthermore, any such substitutions made prior to the execution of this Contract, shall also be subject to the provisions of this section. The Contractor further agrees that any substitutions made pursuant to this section must be equal or better than originally proposed and that the State's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State agrees that an approval of a substitution will not be unreasonably withheld. If approval of a substitution is given, no amendment to this section of the Contract will be required.

- e. The State reserves the right to review the resume of, and if desired, to conduct telephonic or face-to-face interview(s) with, any key personnel proposed by the Contractor or its subcontractor for any position, role, or responsibility identified in the Documents or arising after the Contract has been executed. The Contractor shall provide a current and complete resume of any such personnel to the State Project Director immediately upon identification of such individuals by the Contractor or its subcontractor. The Contractor and its subcontractors shall make such individuals reasonably available to State for telephonic and face-to-face interviews. The State has fifteen (15) days after receipt of such resume to notify the Contractor as to the acceptability of proposed personnel. While the decision of the State shall be final, in the event that the proposed individual is rejected, the State will provide the Contractor with a written explanation of the reason(s) for the rejection. The aforementioned review process shall not prevent the personnel in question from assuming the roles and responsibilities for which they are proposed pending the State's decision.

- f. At the State's request in writing, and with reasonable cause as determined by the State, the Contractor and/or its subcontractors agree to remove and replace immediately any key personnel of the Contractor or subcontractor involved in any capacity pursuant to this Contract.

16. Ownership of Work Products and Confidentiality.

- a. The State shall have sole ownership right, title and interest, including ownership of copyright, in all "Work Products" created, designed, or developed for the State, and purchased by State and/or Federal funds, pursuant to this Contract. The State shall have joint ownership right, title and interest, including joint ownership of copyright, in all "Work Products" created, designed, or developed for the State, and purchased by State and/or Federal funds, in concert with some or all of the other SAS states. Work Products shall include all deliverables, plans, design specifications, reports, hardware, documentation, training materials, educational materials, information, and any software or modifications thereof, including its associated documentation. The State shall have a royalty free, non-exclusive, irrevocable license with unlimited rights to use, display, disclose, distribute, reproduce, or publish the Work Products for any purpose whatsoever. At the request of the State, and in accordance with the Documents and applicable State law, the Contractor shall furnish to the State the Work Products, in whole or in part.
- b. The Contractor shall assist the State or its nominees to obtain copyrights, trademarks, or patents for relevant Work Products in the United States and any other countries. The Contractor agrees to execute all papers and to give all facts known to it necessary to secure United States or foreign country copyrights and patents, and to transfer or cause to transfer to the State all the right, title, and interest in and to such works.
- c. The Contractor shall agree and understand that all discussions with the Contractor and all information gained by the Contractor as a result of the Contractor's performance under the Contract shall be confidential and that no reports, documentation, or material prepared as required by the Contract shall be released to the public without the prior written consent of the State Project Director and the appropriate Commissioner, or his or her designee.
- d. The Contractor shall maintain strict confidentiality of records and reports generated pursuant to this Contract in accordance with the law and established professional ethical standards.
- e. All provisions of this Section shall be subject to applicable State law regarding confidentiality and disclosure and shall survive the termination of the Contract.

17. Restrictions on Marketing of Services. The Contractor agrees that any information obtained by the Contractor or its subcontractors pursuant to the Contract will not be used by the Contractor to market services to Tennessee residents, except to the extent required to fulfill the purposes of the Contract or the Contractor's agreement (i.e., the Financial Agency Agreement) with the Financial Management Service of the U.S. Treasury.

18. Requirements/Design Issues and Change Order Process. Notwithstanding anything else in this Contract to the contrary, Requirements/Design issues and the Change Order process shall be subject to the following provisions:

- a. Prior to freezing the System Design, which shall not occur until after the State has delivered the Detail Design Final Sign-Off and in accordance with the schedule in the Work Plan, the State shall report any Requirements/Design issues in writing to the Contractor. The Contractor shall accommodate any Requirements/Design issues that are reported prior to freezing the System Design, insuring that the State's requirements for the EBT System will be met, at no additional cost to the State.
- b. After the System Design is frozen, apparent deficiencies in that design, or in the Contractor-supplied portion of the EBT system itself, will be reported by either party on Change Request forms. The reporting party will classify the Change Request as either a "Corrective" or "Enhancement." Change. A Corrective Change is defined as a change to repair any flaw in the Contractor-maintained portion of the EBT computer software that causes the system to malfunction, produce erroneous output information from verifiably correct input information, or otherwise perform in a manner not in accordance with the design specifications for the system. Such "flaws" shall be hereinafter referred to as "Defects." An Enhancement Change is defined as a change to add additional functionality that was not identified by the time the Detail Design was frozen. The non-reporting party shall have the right to question the classification assigned by the reporting party; however, in the event of a disagreement over the classification, the State's determination shall prevail, subject to the

Contractor's right to appeal the determination through the Dispute Resolution Process. The Contractor understands and agrees that the State will not be charged for Corrective Changes to repair system Defects at any point during the Contract's term or any changes of an enhancing nature identified prior to freezing the System Design.

- c. In the event of a disagreement over the classification assigned to a Change Request, the Contractor shall proceed with due diligence to implement the change in question. The State shall be the final determinant as to what constitutes "due diligence."
- d. If the State determines that a requested system modification is an Enhancement Change and the System Design has been frozen, then the State initiates the Change Order process by sending the Contractor a written Request for Investigation (RFI).
- e. The Contractor will then perform an investigation to determine the total fixed cost, if any, to fully implement the desired change. The investigation shall be performed at no cost to the State. The total fixed cost shall not include any Contractor personnel travel required to develop or implement the change; travel expenses will be submitted in accordance with Paragraph B.11., and will be invoiced to the State at the same time the fixed-cost for implementing the change is invoiced. If the investigation process is expected to take more than two (2) business days from the receipt of the RFI to complete, then the Contractor will immediately inform the State of this fact. However, in no event shall the investigation take more than twenty (20) business days. The State reserves the right to terminate an investigation, in writing, at any point during the investigation process.
- f. Within the time frame specified above, the Contractor returns the written fixed-cost for the Change Order in question to the State. A description of any modifications required to the State's portion of the EBT System (e.g., to State eligibility systems, data bases, or operating procedures) required to support the change, and to be performed by State personnel, shall be included along with the fixed-cost documentation. (Note that no costs shall be included in the Contractor's fixed-cost documentation for the State-performed portion of the work; only a **description** of the work to be performed.) The total cost to the State for the Contractor's portion of the work to develop, test, and deliver the change shall not exceed this fixed-cost. At this point the State will determine whether or not it wants the Contractor to continue with work on the requested change and will indicate, within twenty (20) business days of receipt of the fixed-cost, the State's decision in writing; no response from the State within the allotted time shall be construed as a disapproval of continued work. The State is not obligated to authorize work on a Change Order beyond the investigation stage, and the Contractor will not be compensated for any work performed without a written approval to proceed.
- g. The sole exception to the "written approval" provision of the previous paragraph occurs in cases in which the service is requested to repair a Defect which, in the opinion of the State, materially impairs the operations and/or data integrity of the EBT system. In this case the Investigation stage may be bypassed and a verbal approval from the State shall be sufficient for the Contractor to begin work. However, the State will still provide the Contractor with a prompt written approval. Defects are Corrective Changes; throughout the term of the Contract, the State shall not be charged for the investigation or correction of Defects.
- h. After receiving approval to proceed with the Change Order work, the Contractor will complete and fully test the change and will notify the State when it may proceed with its own testing. The Contractor will also provide complete documentation of the change and how it affects daily operations. If the change requires that modified computer programs ("code") be installed on the State's portion of the EBT system, then this code shall be provided, along with complete documentation describing its installation and use. The Contractor shall assist the State with its testing, if necessary. Such assistance shall include, but not be limited to, the provision of test scripts and or data used by the Contractor in its tests; the coordination of the State's test within the Contractor's testing environment; and the provision of any results from the test(s) that the State cannot reasonably generate itself. Any Defects in the Contractor's portion of the EBT System discovered during the State's testing shall be repaired by the Contractor at no cost to the State. The Contractor represents and warrants that the Contractor's portion of the EBT System contains no code constructed with the ability and intent to damage, interfere with, or otherwise adversely affect computer programs, data files, or hardware without the consent or intent of the computer user. This definition includes, but is not limited to, self-replicating and self-propagating programming instructions commonly called "viruses" and "worms."

- i. When the State has finished its testing and approves the results, it will notify the Contractor of this fact in writing. This confirmation entitles the Contractor to bill the State for the fixed price, if any, for the work associated with the Change Order, plus allowable travel expenses.
 - j. In the event of a dispute over the fixed cost for the Change Order in question, the State will make a determination of the cost of the Change Order, and the Contractor shall proceed diligently with the all Change Order work, including delivery of the change to the State and assistance with testing, subject to the Contractor's right to appeal the State's determination of the cost through the State's Dispute Resolution Process.
19. Optional Services. With the exception of the following services, the State declines all optional services listed in the *BAFO*, page 10, schedule 3.. The Contractor agrees not to bill the State for any service that it has declined.
- a. Off-Line Data Storage (see Paragraph 4.ii.(d); no charge for the first 6 months, each case) per retrieval request.
 - b. Limited Service Consumer Account.
 - i. For the set-up and maintenance of this account, Citibank shall charge the client/customer the rate quoted on Schedule 3 of the *BAFO*, or a lower rate.
 - ii. The establishment of such accounts will be initiated by the TANF/FS household (consumer) with the financial institution.
20. Insuring Data Integrity. For the term of the Contract, the Contractor shall have full responsibility for the integrity, accuracy, and security of all EBT-related data or information while same is in its possession. (For these purposes "possession" means that the Contractor has received and/or is storing the data or information, in either electronic or hard-copy format, on its computer system(s) or at its facilities.) However, the Contractor shall not be responsible for data or information that was already in error at the time it was transmitted to the Contractor.
21. Training Materials. "Training Materials" refers to both to the initial one-time delivery of Training Pamphlets for Conversion Training as well as the ongoing mailing-out of training materials ("Mailed Training Materials") to new applicants and on-going recipients; the Contractor is responsible for both of these tasks. All training material specified by the *J.E.I.* and subsequently defined in the Contractor's proposal will be reviewed by the EBT Training Advisory Committee and in-state designee(s) for approval. Following this initial approval, the material will be tested and any modifications as a result of such testing will be made prior to conversion. The material will be provided to the State in final form no later than sixty (60) days prior to the date of conversion. The Mailed Training Materials will be available during conversion and said mailing will continue throughout the term of the Contract.
22. Card Issuance and PIN Selection.
- a. The State shall have the right to select any alternative or combination of alternatives identified in the *S4S Clarifications Document* for card issuance only in expedited and/or special needs cases. PIN issuance will occur as described in 22.d. For all other cases the State shall rely on standard mail issuance as described in the Documents. The State will make its selection of alternative(s) during detail design and will confirm its selection with the Detail Design Final Sign-Off.
 - b. The State's selection of an expedited service and/or special needs case card issuance alternative or alternatives contained in the final version of the *S4S Clarifications Document*, or identified prior to the Detail Design final sign-off, shall not affect the core Per Case/Per Month prices described on Schedule 2 of the *BAFO*, or result in any additional cost to the State. PIN issuance will occur as described in 22.d.
 - c. For expedited and/or special needs cases, if authorization information is received by the Contractor prior to 12:00 noon, Central Time, the Contractor will process and mail the personalized cards to the client(s) on the same day and, in cases involving the mailing of PINs, the PIN on the following day.
 - d. The Contractor shall provide, at no additional cost to the State, the capability for clients to change an existing PIN to another one of their own selection, over the telephone, via the Automated Response Unit. (For these

purposes "select" and "selection" shall be distinct from PIN "assignment" and shall refer to the capability for the client(s) to choose their own PIN.) The failure of the Contractor to provide this capability shall result in a termination of the Contract for Breach. The delivery of this capability will be consistent with the August 5th, 1996 proposal for PIN selection, Option 1. This capability shall be at not cost to the State. The Contractor shall see that its Customer Service Center (Customer Service Representatives or Automated Response Unit) exercises all reasonable security precautions to assure the identity of the clients and to protect clients' benefits.

23. Group Homes. Based on the Final Version of the SAS Clarification Document, Group Homes that are not, or choose not to be, authorized retailers will be set up as protective payees for the consumer.

24. Waivers.

- a. The Contractor has read the attached *Tennessee EBT Waiver Requests* and, to the extent that these are applicable to the services performed by the Contractor, the Contractor agrees to the provisions contained therein.

25. Definition of Active Case and Active Case Reporting.

- a. For billing purposes, an "active case," for DHS, is a case that has debit and/or credit activity during a calendar month. In no instance shall the State be billed for cases not meeting this definition.
- b. The format of any report and any additional data required by the State to meet federal and State reporting requirements will be provided by the Contractor at the State's request. These reports will be forwarded to the DHS Contract Management Unit and the Fiscal Services Section. The reports sent to the DHS Contract Management Unit will provide case and account information for all cases that are placed in "off-line" mode, along with the effective date of such occurrence. The reports sent to the Fiscal Services Section will provide sufficient information to meet Federal reporting requirements. The format and any additional data required by the State will be identified during the Requirements Review.
- c. An "active case," for the Department of Health, WIC Program, consists of a WIC family identified by the State eligibility system as authorized to receive benefits for a calendar month (or a benefit period consisting of 31 days).
26. Live Test Demo. The number of participants, the length of the demo time period, and the system functionality to be tested will be identified by the State, and agreed to by the contractor, at the time of Requirements Review.
27. ARU Responsibilities. Services provided by the ARU/CSR will include: PIN changes replacements, and card replacements/terminations on lost or stolen cards. Services will comply with the Americans with Disabilities Act of 1990, P.L. 101-336, in which services are required to accommodate special needs. The response and performance standards as required by the *I.E.I.* will be enforced and validated by monthly performance reports to the State. The format and date required on these weekly reports will be defined by the State.
28. Reports Training. The Contractor will complete reports training for agency staff prior to the Systems Design phase. Any modifications identified by the State after training and prior to the Detail Design Final Sign-Off will be incorporated by the Contractor.
29. Retailer Marketing and Implementation. The contractor is responsible for complying with all FCS rules regarding marketing and retailer recruitment as stipulated in 7 CFR 274.12 et seq. The contractor is also responsible for:
- a. Assessment: including, but not limited to, POS need and equipment assessment; assessment of existing networks and equipment; third party processors; piggy-backing on existing structures; density of distribution points and client access to benefits.
- b. Marketing: including, but not limited to, advertisement of program; availability; ease-of-use; retailer communication; coordination; and on-going informational meetings. The contractor will provide and implement a comprehensive Marketing and Retailer Recruitment plan which will be presented for State approval no later than ninety (90) days after contract execution. The plan must explain, at a minimum, marketing activities and plan(s), how Retailer Recruitment will take place, activities to accomplish recruitment

and include copies of marketing and recruitment materials for State approval. The status against the plan will be updated on a monthly basis, or at the request of the State. The contractor will assist the State in the scheduling of public question and answer meetings for retailers and will provide assistance and technical expertise during these sessions. The contractor must utilize information and recruitment methods that include, but are not limited to, brochures/notices that clearly explain the EBT system; video presentations; window signs and notices that promote the program. The contractor will involve retailers in conducting marketing efforts; enlist the support and the help of client advocacy groups and other community organizations in promoting EBT success. The contractor must acknowledge and agree that all marketing concepts, activities and materials must be approved by the State prior to the use, distribution or scheduling of any retailer activities.

- c. Recruitment: including, but not limited to, contact with all FCS-certified retailers in the pilot site, border areas and expansion in the rest of the state; meetings with third party processors; explanation of the State's expectations for retailer functions and participation. The vendor will be responsible for contacting all authorized Food Stamp retailers and offering them the opportunity for participation in the EBT system.
- d. A minimum of 90 days before conversion, the vendor will contact all FCS approved retailers in the conversion area. A minimum of 90 days before pilot, the vendor will contact all FCS approved retailers in the pilot area. The selected vendor must initiate contact with all FCS certified retailers and execute an agreement that provides for the installation, testing, and/or use of POS devices to deliver Food Stamp benefits to clients.

30. Cash Access Plan :

- a. The Contractor shall produce a Cash Access Plan which will detail the following subjects:

1. Measures of adequacy- Cash access will be determined using the following factors:

- i. EBT cash locations will meet or exceed current commercial check cashing availability levels. Cash locations are defined below.
- ii. The total number of cash location in each zip code. Cash locations are defined as: POS devices located at merchants that are participating in the cash program, cash only merchants, and ATMs that do not surcharge.
- iii. The average amount of cash represented by the institutions identified in 30.A.1.ii that will be available within each zip code will meet or exceed cash access demand for the client population within the zip code.
- iv. Cash endpoints will be equally convenient to client neighborhoods or places of work as the current check cashing environment.
- v. A reasonable number of locations will be available to cash whole benefits or amounts greater than \$200.
- vi. Client complaints will be handled according to the process described in 31.a.

- 2. Recruitment- Survey all FCS merchants and determine interest in commercial EBT participation; recruit all FCS commercial merchants for the EBT cash program; identify and recruit preferred client encashment locations; survey and market large commercial terminal drivers and third party processors to recruit EBT cash locations from among their membership; survey and recruit commercial ATM networks, credit unions, and banking institutions to participate in the EBT cash program; recruit strategic locations for bill payment and cash services; identify service gaps; recruit new endpoints from amount EBT only FCS merchants, store chains, individual commercial locations and service organizations; monitor the number of endpoints and merchant encashment policies as client population and retail demographics change over time.

3. Equipment deployment-

- i. Cash access recruitment activities will begin with the survey of FCS merchants in the pilot areas and continue through statewide implementation. To the greatest extent possible, the commercial POS and ATM environment will be used to support cash access during the pilot phase of the project. When commercial endpoints are not available, EBT-only individual merchants will be recruited from a variety of sources including local non-food retailers, services stations, convenience stores, and rural general stores. Pilot client encashment practices will be assessed to determine whether it will be

necessary for Citibank to install POS or cash dispensing units in locations where no other source of commercial cash exists.

- ii. Following the pilot, specific sources of bill payment services will be recruited based on state preference and demand.
- iii. In instances where safety concerns or extreme rural accessibility problems will result in gaps in convenient cash availability that are not easy and quick to remedy, the State and Citibank will work cooperatively to identify these situations before the implementation date effective in that area.

31. Responsibility for Adequate Cash Access.

- a. The Contractor bears ultimate responsibility for maintaining adequate cash access. For the purposes of this document "adequate cash access" shall be defined as follows: all clients shall receive access to their cash benefits, using their EBT access card, in no event less convenient, from the standpoint of geographical location of the EBT access device, than it was prior to the implementation of EBT; this includes clients who normally access their benefits at border stores outside of the geographic boundaries of Tennessee. This access will be provided by primarily using POS devices. Also utilized for cash access will be ATM's that will not surcharge clients (within the geographic borders of Tennessee). In every case, the State shall be the sole and final determinant of adequate access, on a case-by-case basis. The Contractor shall systematically monitor access issues, shall report to the State in a timely manner and in writing any inadequate access findings, and shall promptly rectify any access problems discovered. After it has been effected, the remedy shall also be promptly reported, in writing, to the State. The State will also notify the Contractor, in writing, of any access problems brought to its attention. In the event of a State-discovered access problem, the State will notify the Contractor in writing of the problem, and the Contractor shall promptly correct the problem to the State's satisfaction, as described above. In cases in which the State and the Contractor cannot agree as to what constitutes adequate access, the Contractor shall notify the Commissioner of the affected agency within fourteen (14) calendar days of the original inadequate access notification. The Commissioner shall make a determination regarding the access issue and shall provide this decision to the Contractor in writing; if the Commissioner of the affected agency finds that access is inadequate, the Contractor shall correct the access issue promptly, at no cost to the State.
- b. In accordance with Section I.III.B.6.iii of the Contractor's proposal, the Contractor agrees to pursue cash access, via POS devices, in each county via the United States Postal Service. This is in addition to services provided via POS devices in other locations at the State's discretion and approval.
- c. In the event that the demographics of a given area undergo a significant change, creating new access patterns or rendering old ones obsolete, the State reserves the right to make reasonable requests for additional access devices and support. The Contractor agrees to honor all such reasonable requests.

32. Gateway Fee. Liability for gateway fees has not been assigned.

33. Food Coupon Conversion. The Contractor will provide this service until statewide implementation is achieved.

34. Key Entered Transactions: The functionality for key-entered transactions will be in accordance with the QUEST operating rules.

35. Return of Funds. The Contractor agrees to return to the State any overpayments due to unearned funds or funds disallowed pursuant to the terms of the contract that were disbursed to the Contractor by the State. The Contractor shall return any overpayment to the State within forty (40) calendar days after either discovery by the Contractor, or notification by the State of the overpayment. In the event that the Contractor or its independent auditor discovers an overpayment has been made, the Contractor shall repay said overpayment within forty (40) calendar days without prior notification from the State. In the event that the State first discovers an overpayment has been made, the State shall notify the Contractor in writing of such a finding. Should repayment not be made within the forty (40) calendar day period, the State shall charge to the Contractor a reasonable interest rate per month (1 1/2%) on the outstanding balance until the overpayment is satisfied. The State, at its option, may recoup the overpayment, including interest, from subsequent payment(s) due the Contractor. In the event of a dispute as to

the amount claimed by the State, the Contractor may seek settlement through the State's Dispute Resolution Process.

36. Host-to-Host Communication and System Interfaces.

- a. The Contractor shall be responsible for all Host-to-Host line and communications costs, initial or ongoing, required for EBT. The Contractor shall provide and maintain, at its own expense, all lines and equipment required up to and including the modem(s)(if required), or other communications device(s), operated at the State's project site or Data Center for the purpose of EBT communications. The State shall have responsibility for lines and equipment on the State's side of the Contractor supplied modem(s) or communications device(s).
- b. The Contractor shall provide the State, at no additional cost, the technical specifications, communications protocols, and all communication and application software needed to implement and maintain the Host-to-Host Communication and System Interface links to each State eligibility system (there may be more than one) that distributes, or is to distribute, benefits through the EBT system.
- c. Return data and or files from the Contractor's host processor to the State will be returned to the appropriate State host processor. For example, if TANF set-up or benefit issuance information is transmitted from Processor X and WIC set-up or benefit issuance information is transmitted from Processor Y, return TANF data will be sent to Processor X and return WIC data will be sent to Processor Y.

37. Administrative Terminal Functionality.

- a. The Contractor agrees to provide Administrative Terminal software to the State as a part of the core services at no additional cost. The State shall not be required to purchase any additional software beyond that provided by the Contractor to use Administrative Terminals.
- b. The Administrative terminal software will operate, as required, on either personal computers or 3270 terminals. The Contractor assures the State that the full Administrative Terminal feature and transaction set, as described in the Documents, will be available to users operating 3270 terminals.
- c. The Contractor shall be responsible for all Administrative Terminal communications costs, initial or ongoing for the life of the Contract, as described in Section E.37, above.
- d. The Contractor shall provide the State, at no additional cost, the technical specifications, communications protocols, and all communication and application software needed to implement and maintain the Administrative Terminal Functionality for each eligibility system (there may be more than one) that distributes, or is to distribute, benefits through the EBT system.
- e. In the event that the State decides to modify the State's eligibility system(s) to interface directly with the Contractor's EBT system, apart from the Administrative Terminal functionality (i.e., to provide smooth transitions between terminal display screens of the eligibility system(s) and those of the Contractor's EBT system, without the need to operate a separate terminal session, and without redundant data entry), the Contractor's responsibilities shall include, but not be limited to, the following:
 - i. Assisting the State in its analysis of its benefits eligibility system(s) by providing consulting services on all relevant aspects of the Contractor's EBT system.
 - ii. Assisting the State in testing the modifications to the benefits eligibility system(s) by providing: a testing environment to be used for the test(s); any data or reports necessary for verifying the test(s) that the State is not reasonably capable of generating; and assistance in verifying the test results.

38. Settlement.

- a. Settlement Reports. The Contractor shall provide daily settlement information via administrative terminal to the State by 6:00 a.m. Central Time on settlement date. Such information shall report the amount settling at the State's designated fiscal agent bank account on that date and shall reconcile to all corresponding clearing and reconciliation reports, account records and transaction detail files provided to the State by the Contractor.

- b. **EBT Transaction Settlement.** The daily settlement between the State and the Contractor for TANF EBT transactions processed shall be through a net ACH Debit entry (for the State's net debit position with the Contractor) or a net ACH Credit entry (for the State's net credit position with the Contractor) initiated by the Contractor on the transaction cutoff date for settlement on the following banking day at the State's bank account designated by the State of Tennessee Treasurer. The date of the settlement between the State and the Contractor for TANF EBT transactions will be the same as the date of the settlement between the Contractor and the EBT Acquirers for those same EBT transactions as in accordance with Sections 6.2 of the Quest Operating Rules. The Contractor shall provide the State with daily reporting and/or access to adequate information which will allow the State to identify and reconcile any differences between the Contractor's settlement with the State and the Contractor's settlement with the EBT Acquirers. The details for this reconciliation shall be addressed during the development of procedures described in paragraph 39 below.

The State will designate the Contractor as its agent for requesting drawdown of federal funds directly to the Contractor for the daily settlement of Food Stamp (FS) EBT transactions and may also designate the Contractor as its agent for requesting a daily drawdown of federal funds for the federal share of TANF EBT transactions.

- c. **Backup Settlement.** In the event that on any settlement day the Contractor is unable to initiate settlement with the State via ACH transfer, the Contractor shall promptly notify the State and the State shall initiate same-day settlement through Fedwire transfer to the bank account designated by the Contractor (for the State's net debit position with the Contractor) or the Contractor shall initiate same-day settlement through Fedwire transfer to the State's bank account as designated by the State of Tennessee Treasurer (for the State's net credit position with the Contractor).
- d. **Settlement Errors.** In the event that on any settlement day the amount of the net settlement amount received by the State does not reconcile to the settlement clearing reports and/or data files received by the Contractor, the Contractor, upon notification from the State or discovery of the discrepancy shall promptly determine whether the reporting or the settlement is incorrect. If the Contractor determines that the reporting is incorrect, then the Contractor shall revise the settlement reports and/or data files to reflect the appropriate settlement amount. If the net settlement amount received by the State is incorrect, then the State shall initiate same-day settlement for the difference through Fedwire transfer to the bank account designated by the Contractor (for the State's net debit position with the Contractor) or the Contractor shall initiate same-day settlement for the difference through Fedwire transfer to the State's bank account as designated by the State of Tennessee Treasurer (for the State's net credit position with the Contractor). If an error in the settlement is discovered by either the State or the Contractor and both parties are notified by 2:30 p.m. Central Time, the error should be corrected by a Fedwire transfer of funds by 3:00 p.m. Central Time on the day the error is discovered. In the event a party fails to correct a settlement error on the appropriate day, the party so failing shall pay to the other party the principal amount of the settlement error, plus interest at a rate which will equal the average of the Federal Funds (effective) rate published in the Federal Reserve statistical release H.15 (519) by the Board of Governors of the Federal Reserve System, as such average fluctuates from day to day, from the date of such failure until the date of payment thereof. In the event the State fails to settle, the applicable rate will equal the average of the Federal Funds (effective) rate published in the Federal Reserve statistical release H.15 (519) by the Board of Governors of the Federal Reserve System, as such average fluctuates from day to day. Notwithstanding the foregoing, such interest payment shall be waived if the amount of interest would equal less than \$100.00.

39. **Settlement and Reconciliation Operating Procedures.** The Contractor will work with the State during the State Requirements Review and Design Phases to establish written operating procedures for the Settlement and Reconciliation processes.

40. **Returned Cards.** The Contractor's return address will be printed on the envelopes for cards. The Contractor will report to the State within 2 business days of receipt on returned cards/PINS. Card and PIN replacement, upon receipt of authorization from the State, will be issued by the Contractor in accordance with the Federal timeliness requirement. PIN replacements will occur via the Customer Service Center (Customer Service Representative or Automated Response Unit), by phone, per State agreed upon procedures.

41. State-deployed cash only POS equipment.

- a. As a general policy, the State of Tennessee Department of Human Services will not allow the placement of state deployed cash only POS equipment in any location other than FCS-certified retailers if the primary business of those entities is:
 - i. the sale of liquor or spirits;
 - ii. the sale, purchase, or rental of beepers, pagers, cellular phones, or other electronic communication equipment (not including computer hardware or software);
 - iii. the sale, rental, or distribution of adult entertainment, literature, movies, or devices;
 - iv. any form of gambling; and/or
 - v. the sale of any style of firearm.

The Contractor shall assure that state deployed cash only POS equipment is not installed in such locations.

If, for the provision of adequate access, exceptions must be made, they will be based on individual circumstances, principal businesses, etc., as warranted. Such exceptions may be granted only to locations that are not engaged in any commerce or trade that is inconsistent with the image and intent of the Food Stamp and TANF Programs.

42. Staggering TANF Benefits. The Contractor understands that the State may choose not to stagger TANF cash benefits.
43. Extract Files. On a monthly basis, the Contractor shall supply the State with an extract file(s) of all client records that have been inactive for six months and therefore moved "off-line." This extract file shall include, at a minimum, all fields that were received or derived from State account set-up records and benefit authorization records, as well as the benefit balances remaining. The benefit balances shall be broken down to and presented at the sub-account level (e.g., separate balances for TANF, UIB, Food Stamps, WIC, etc.). This provision is not meant to apply to history data, which will be handled as described in the Documents.
44. Batch File Transmission Cut-Off Times. As stated in the *SAS Clarifications Document*, the Contractor will work with the State to define a batch file transmission schedule and cutoff times, and shall accommodate the State's Central Time zone. The Contractor agrees that as long as the State initiates its batch transmission by the agreed upon cutoff time, benefits will be available for access by 8:00 AM, Central Time the next day.
45. Contractor Verification of FCS Merchants. In accordance with the *I.E.I.*, the Contractor shall include language in all of its agreements with acquirers to require either the Contractor or the acquirer(s) to verify FCS merchant authorization numbers prior to approval of Food Stamp (FS) transactions, to insure that regardless of where FS transactions originate, the originating merchants are FCS authorized.
46. POS Device Standards. Immediately upon receiving the fully-executed copy of the Contract, the Contractor will, upon request, supply to retailers, third-party terminal drivers, and other financial institutions with complete interface (e.g., ATM, POS-device, and terminal) standards, communication protocols, and technical specifications, to enable such entities to bring their interface devices into compliance with the Contractor's EBT system environment and allow them to process Food Stamp and/or EBT cash transactions.
47. No Additional Hardware/Software Costs. During the term of the Contract, the State shall not be liable for any additional costs, including, but not limited to rate increases or one-time charges, for hardware, software, or other enhancements to the Contractor-supplied portion of the EBT system, required to meet the system response times as defined in the Documents.
48. Authorized Representatives. With regard to Authorized Representatives, the Contractor understands and agrees to the following:
 - a. Regardless of the account mix (pooled cash or otherwise) on the master EBT account to which the Authorized Representative is to be assigned, the authorized representative may be designated and set up with appropriate access without having to establish a second master EBT account or "case." However, the Contractor will issue the authorized representative a separate PAN and Card, and the expense thereof shall be contained within the

Per-Case/Per Month pricing for the primary recipient's case. There shall be no additional charges to the State for assigning and maintaining Authorized Representatives.

- b. The Contractor shall provide, at no additional charge to the State, the capability to limit the authorized representative's access to only those account types (pooled-cash or otherwise) to which the authorized representative is entitled access.
49. Inactive Account Reporting. The Contractor shall flag and transmit a report to the State for accounts on which :
 1. No debit activity within the last 60 days and is susceptible to becoming stale;
 2. No debit activity within the last 3 months; and
 3. No debit activity within the last 12 months.
50. Functional Demo. The time of the functional demonstration shall be agreed to by the State and the Contractor.
51. Testing. Notwithstanding anything else herein to the contrary, the Contractor shall be responsible for testing the complete EBT solution, which includes all aspects of both the State's and the Contractor's components of the EBT System; this includes but is not limited to, all communications and interactions between these two components. The contractor shall provide test files and validate output files during development and acceptance testing of the State's eligibility system(s) prior to formal vendor acceptance testing. The Contractor agrees not to limit its testing to its own benefits delivery system. Provided, however, that the Contractor shall not be responsible for repairing or modifying the State's eligibility system(s) as a result of the testing. The State will provide all reasonable assistance to the Contractor in testing the State's portion of the EBT System.
52. Quest Operating Rules.
 - a. The Contractor shall adhere to the *Quest Operating Rules* and to any subsequent amendments to these rules that are approved by NACHA.
 - b. The Contractor will take the primary role in monitoring compliance with the *Quest Operating Rules* and taking corrective action where necessary. However, the State agrees to work with the Contractor to address any *Quest Operating Rules* compliance issues that by their very nature require State assistance.
53. WIC Feasibility Study, Implementation and On-Going Operations. The Contractor understands that WIC has not, as of the effective date of this Contract, finalized its decision with regard to participating in the State's EBT project. In the event that WIC does decide to participate, the State will notify the Contractor of this fact in writing and the Contractor shall support the WIC EBT Project during the Feasibility Study, Evaluation, Statewide Roll-Out, and Ongoing Operations phases according to the following provisions.
 - a. If WIC does decide to participate the State shall execute an amendment to add additional provisions to the contract to cover the WIC portion of the project.
 - b. The Contractor agrees to construct the State's project schedule to allow a three(3)-month assessment period between the completion of the WIC Feasibility Test and commencement of Statewide rollout of WIC. WIC officials shall use this time assess the quality of the WIC pilot prior making a determination with regard to continuing with the WIC implementation effort.
54. Commercial Advertising Restrictions. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor's firm or its services are endorsed or preferred by the State of Tennessee without written authorization from the Commissioner of the Department of Finance and Administration.
55. No modifications to Eligibility Systems to Support Adding Benefits to Pre-Existing Cards. Notwithstanding anything else herein to the contrary, Contractor assures the State that it will not be required to modify its eligibility systems or procedures in either of the two following ways in order to add State benefits to a federal- or State-issued pre-existing EBT card: (1) establish a single common identifier for a given individual that crosses multiple eligibility systems, and include this number with set-up records; (2) perform a database lookup to ascertain the Contractor's EBT account number (or otherwise use the Contractor's EBT system in any way to screen for pre-existing accounts) and include this number with set-up records. However, the State must "tag" its set-up record(s) in some way to enable the Contractor to link clients to their respective programs, and the State is responsible for identifying, at its sole discretion, either the State's pre-existing eligibility system client identifier, the recipient's pre-existing card's PAN, or the recipient's SSN. The Contractor will perform the necessary edits (including cross-

checking client demographic data such as birth date, mother's maiden name, and/or SSN) to ensure that the benefits are added to the appropriate account based upon the State-specified identifier (either the State-specified eligibility system client identifier, the recipient's pre-existing card's PAN, or the recipient's SSN, at the State's discretion).

56. Independent Contractor. The Contractor represents itself to be an independent Contractor offering the services described herein to the general public and shall not represent itself or its employees to be employees of the State of Tennessee. Therefore, the Contractor shall assume all legal and financial responsibility with respect to its employees for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc.; and agrees to indemnify, save, and hold the State and its employees harmless from and against any and all loss: cost (including attorneys' fees); and damage of any kind related to such matters.
57. Adding Other Benefit Programs. The State reserves the right, within the scope of the Contract Documents, to add other benefit programs or to delete benefit programs from the EBT System at the pricing established in the Contract Documents. Costs of state specific services, such as training, incurred by adding such programs shall be negotiated between the parties; provided, however, that the Department of Finance and Administration reserves the right to provide training through third parties at no additional cost from the Contractor as provided in the Contract Documents. The Department of Finance and Administration agree to negotiate in good faith to develop a Contract Amendment for additional start-up costs incurred by the Contractor for adding other programs. The Department of Finance and Administration and the Contractor agree that in the event the parties can not agree on such a Contract Amendment, the Department of Finance and Administration may contract for the provision of these services by another provider.
58. FCS access to system. The contractor must provide administrative terminal capability, comparable to the State's, to the federal FCS office located in Nashville, Tennessee. FCS will have access to Food Stamp data only.
59. Hot Site Backup. The state retains the right to visit the facility in which the Hot Site Backup is contained. The state will provide a minimum of five (5) working days notice. After any period of unscheduled downtime during which the contractor does not switch to the hot site backup, the contractor will provide an analysis of the problem to the State, and justification for the failure to switch.
60. Necessity of Federal Approval. The Contract and an Advanced Planning Document (APD) will be forwarded for approval by federal funding agencies. The State will not be bound by this Contract until it is approved by the appropriate federal officials. Approval is considered to have occurred at the point written correspondence is received from the federal agency confirming approval.
61. Binding Authority. Neither the SAS nor any of its constituent states has the authority to bind the State of Tennessee in any fashion, including without limitation approval of design specifications, systems plans, and implementation schedules, and deliverables. The State of Tennessee has not authorized any state, group of states, or agencies of states other than Tennessee to bind it to any terms not specifically agreed to by the State of Tennessee in this Contract. It is understood and agreed that the only parties who can bind the State are officials who are signatories hereto.
62. Most Favored State Status. In the event that Citibank offers any other state more favorable terms than those provided to the Department for services or products comparable or similar to those within scope of this agreement, Citibank agrees to make such terms available to the Department at the Department's option. This expectation is not limited to services or products for the Southern Alliance of States.
63. All Prior Agreements Superseded. This agreement represents the total and complete agreement of the parties, and all prior representations, negotiations, and/or approvals are superseded by this agreement.
64. No Outside Representations. Contractor expressly agrees that it enters into this Contract based solely upon the representations contained in the Documents defined in Section A.1 and does not rely upon any representations made by the United States Government, SAS, or any other state, or the State of Tennessee, its officials and employees.
65. State Official Signature Required. All approvals, agreements, consents or representations contained herein required of the State shall be in writing signed by the appropriate State official or shall be of no effect and be null and void.

66. Severability. If any provision(s) of this Contract (including items incorporated by reference), or the Contract itself, is declared or found by a Court of competent jurisdiction to be illegal, unenforceable, void, or otherwise contrary to or in violation of the law, then both the State and the Contractor shall be relieved of all obligations arising under such provision. Such provision shall be severable, and the remaining provisions of this Contract shall not be affected by such declaration or finding and will remain in force, unless the State decides, in its sole discretion, that such declaration or finding materially impairs the purpose of the Contract, in which case the State may terminate this Contract upon notice to the Contractor. Notwithstanding any provision herein to the contrary, in the event of such a declaration or finding, it shall not be defined a breach by the State, and, if the entire Contract is found to be illegal, unenforceable, or void, then the State shall have no liability to the Contractor for any amounts whatsoever and any termination under this paragraph shall likewise be without cost to the State for any amounts whatsoever.
67. Jurisdiction and Venue. This Contract shall be governed in its entirety by the laws of the State of Tennessee. Venue shall be in Davidson County, State of Tennessee. The place of all contracts, transactions, agreements, their situs and forum, shall be Davidson County, State of Tennessee, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.
68. Force Majeure. Where performance is interrupted through the fault of neither party or its privies, neither shall be liable to the other except that interruptions in service which could have been avoided by the use of alternate processing sites shall not be forgiven under this provision.

CONTRACT BETWEEN F&A AND CITIBANK, F.S.B.

CITIBANK, F.S.B.

DATE:

6/30/97

BY:

Carlos Palomares, President & CEO Citibank, F.S.B., Eastern Region

DEPARTMENT OF FINANCE AND ADMINISTRATION

By:

John Ferguson, Commissioner

DATE:

7/11/97

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION

By:

John D. Ferguson, Commissioner

DATE:

7/11/97

APPROVED:

STATE TREASURER

By:

Steve Adams, Treasurer

DATE:

7/17/97

APPROVED:

COMPTROLLER OF THE TREASURY

By:

William R. Snodgrass, Comptroller

DATE:

7/21/97

APPENDIX A

The additional remedies identified in this section shall not be construed to limit or restrict the State's application of any other remedies available in this Contract. The additional remedies described in items 2 through 8. below, shall be cumulative and shall be assessed upon each separate period of accountability.

1. If the pilot does not begin on the date identified in the implementation plan, and the delay has not been materially caused by the actions of the State, the State, at its discretion, may deduct five percent (5%) from the total Per Case/Per Month amount of the Contractor's request for payment after the pilot has begun. This five percent deduction shall be assessed against every subsequent monthly billing through the end of pilot; however, the percentage deductions will not be applied for more than the duration of the pilot. Any amounts so determined shall constitute deductions from amounts due, or that shall become due, the Contractor. Failure to reflect such deductions in a request for payment shall constitute grounds for the State to reject that request for payment.
2. Timely statewide rollout is agreed by the parties to be of critical importance to the State. Statewide rollout shall be deemed to have occurred when the implementation has been accomplished to the reasonable satisfaction of the State. Statewide rollout occurs on schedule if one of the following applies: (1) if rollout occurs on the original date set out in the approved work plan or upon a later date if agreed upon between the parties; or (2) if, in the event of any mutually agreed upon delay, the Contractor subsequently returns to the schedule. The state will expend its best efforts to assist the Contractor in achieving timely statewide rollout. If statewide rollout is not timely, and the delay has not been materially caused by the actions of the State, the State may deduct, for the first month of delay, one percent (1%) of the total Per Case/Per Month amount which otherwise would have been paid to the Contractor had timely rollout been achieved. For each subsequent month that statewide rollout is not achieved, the State shall deduct an additional one percent (1%) and apply the additional percentage retroactively, up to four (4%) percent of the total Per Case/Per Month amount which otherwise would have been paid to the Contractor. Any amounts so determined shall constitute deductions from amounts due, or that shall become due, the Contractor; or shall constitute adjustments to prior months' payments in the event of retroactive remedies. Failure to reflect such deductions in a request for payment shall be grounds for the State to reject that request for payment.
3. In the event the Contractor fails to fully and accurately perform any of the following task activities required by this Contract, the State shall assess liquidated damages as calculated using Table 1 below. Any amounts so determined shall constitute deductions from amounts due, or that shall become due, the Contractor. Failure to reflect such deductions in a request for payment shall be grounds for the State to reject that request for payment.

Performance Criteria:

Account Set-Up File- IEI pages 97-98, 129-133, and Final SAS Core Clarifications question #43.

Benefit Authorization- IEI pages 97-98, 129-133, and Final SAS Core Clarifications question #97.

Card Issuance- IEI pages 98, 118, 133-138, and Final SAS Core Clarifications pg. 2, question #22, #27, #70, #87, #100.

Standard Reports- IEI pages 99, 173-183, and Final SAS Core Clarifications question #95.

Daily data extract- IEI pages 99, 173-183, and Final SAS Core Clarifications question #85.

Customer Service Center- IEI pages 98, 159-163, and Final SAS Core Clarifications question #116.

Automated Response Unit- IEI pages 98, 159-163, and Final SAS Core Clarifications question #116.

Point of Sale processing- IEI pages 99, 104, 119-123, 164-168, and Final SAS Core Clarifications pg. 4, 5, 6, Q#19, #20, #32, #73, #119.

Table 1

TASK ACTIVITY	REMEDY
Account Set-up file	\$ \$325/24 hour period
Benefit authorization file	\$ \$325/24 hour period
Card Issuance	\$ \$325/24 hour period
Standard Reports	\$ \$325/24 hour period
Daily data extract	\$ \$325/24 hour period
Customer Service Center	\$ \$325/24 hour period
Automated Response Unit	\$ \$325/24 hour period
Point of Sale maintenance support	\$ \$325/24 hour period

4. During the first calendar month in which the Contractor fails to maintain a monthly average for processing a transaction request and its response as specified in 7 CFR 274.12, the State shall deduct one percent (1%) from the total Per Case/Per Month amount which otherwise would have been paid to the Contractor. For each consecutive calendar month of noncompliance, the State shall deduct an additional one percent (1%) from the total Per Case/Per Month amount which otherwise would have been paid to the Contractor for each month in which the deficiency occurred. Any amounts so determined shall constitute deductions from amounts due, or that shall become due, the Contractor. Failure to reflect such deductions in a request for payment shall constitute grounds for the State to reject that request for payment.
5. In the event the Contractor's central computer system fails to maintain an accuracy standard of no more than two (2) inaccurate EBT transactions for every 10,000 food stamp transactions processed as specified in this Contract, the State, at its discretion, may deduct one percent (1%) per month from the Per Case/Per Month amount which otherwise would have been paid to the Contractor. For each consecutive calendar month of noncompliance, the State shall deduct an additional one percent (1%) per month from the total Per Case/Per Month amount which otherwise would have been paid to the Contractor for each month in which the deficiency continues to exist, up to four percent (4%). Any amounts so determined shall constitute deductions from amounts due, or that shall become due, the

Contractor. Failure to reflect such deductions in a request for payment shall constitute grounds for the State to reject that request for payment.

6. In the event the Contractor's EBT system is unavailable for transactions processing and authorization due to unscheduled downtime for more than thirty (30) consecutive minutes or forty-five (45) cumulative minutes during the calendar month, the State shall deduct \$150 per minute for minutes one (1) through sixty (60) in excess of the tolerance; \$225 per minute for minutes sixty-one (61) through 240 in excess of tolerance; and \$300 per minute for minutes 241 through 300 in excess of tolerance. A daily unscheduled downtime maximum of \$ 50,000 will be applicable. Any amounts so determined shall constitute deductions from amounts due, or that shall become due, the Contractor. Failure to reflect such deductions in a request for payment shall constitute grounds for the State to reject that request for payment.
7. During the first calendar month in which the Contractor's central computer system fails to maintain a monthly average for processing an on-line administrative terminal request and response within two (2) seconds of receipt by the contractor ninety-eight (98%) of the time on a monthly basis, the State shall deduct one half percent (.5%) per month from the total Per Case/Per Month amount which otherwise would have been paid to the Contractor. For each consecutive calendar month of noncompliance, the State shall deduct an additional one half percent (.5%) per month from the total Per Case/Per Month amount which otherwise would have been paid to the Contractor, up to one and one half percent (1.5%). Any amounts so determined shall constitute deductions from amounts due, or that shall become due, the Contractor. Failure to reflect such deductions in a request for payment shall constitute grounds for the State to reject that request for payment.
8. The monthly cumulative maximum for performance penalties assessed under paragraphs 1, 2, 3, 4, 5, and 7 is \$37,500. The monthly cumulative maximum inclusive of paragraph 6 is \$87,500.

APPENDIX B

I. FINANCIAL AUDIT REPORTS

- A. ACCOUNT SET-UP REPORTS -- The contractor shall provide to States a daily electronic report of EBT accounts established which includes, at a minimum, the following data elements: EBT program type, EBT Account number, State client/case identifier, date and time account set-up information was received, date and time account established, and transmission type (batch or on-line). Additionally, the Contractor shall notify each administering agency of account set-up exceptions, including but not limited to, rejected set-up requests and reason for rejection (e.g., duplicate case).
- B. BENEFIT AUTHORIZATION REPORTS -- The contractor shall provide to States a daily electronic report of EBT Benefit Authorizations processed, which includes, at a minimum, the following data elements: EBT program type, EBT Account Number, State client/case identifier, date and time benefit authorization data was received, date and time benefit authorization data was processed (posted), transaction type, and transmission type. Additionally, the contractor shall notify each administering agency of benefit authorization exceptions, including but not limited to rejected benefit authorization attempts and reason for rejection (e.g., duplicate authorization and uncashable benefits)
- C. ACCOUNT MAINTENANCE REPORTS -- The account maintenance report shall provide a comprehensive listing of all account maintenance actions processed by the EBT system over the preceding business day. This report shall include both on-line and batch account maintenance actions.
- D. ACCOUNT STATUS REPORTS -- The account status report shall include a record of all account status changes received and processed by the EBT system over the preceding business day. This report shall include status of inactive, dormant, and expunged accounts as well as accounts placed on-hold for administrative reasons.
- E. ADMINISTRATIVE ACTION REPORTS -- This report shall provide a listing of all administrative actions received and processed by the EBT system over the preceding business day. Administrative actions shall include changes to client, case, or account data (e.g., client name or address), account closures, expungements, and re-obligations.
- F. ACCOUNT RECONCILIATION REPORTS -- The contractor shall provide an account reconciliation report including a match between on-line and batch account activity adjustments processed for the preceding business day. This report may be used by States to identify data discrepancies between the EBT system and State eligibility systems.
- G. ACCOUNT AUDIT REPORT -- The contractor shall provide a detailed audit trail of all system functions and transactions which impact the account balance or status of an account.
- H. TRANSACTION FEE SHARES REPORTS -- The contractor shall provide detailed and summary reports to track and account for both Government paid and client paid transaction fees on a monthly basis. These reports will be used to determine state and federal shares of transactions fees for both public assistance and food stamp benefits.
- I. OUTSTANDING BENEFITS REPORTS -- The contractor shall provide detailed reports to list separately all benefits for each local district that are unredeemed and "outstanding" for each month.
- J. CASHED OUT OF STATE REPORTS -- The contractor shall provide detailed reports to list out of state sites at which clients redeem their benefits. The reports shall identify the name and address of the issuance site and the State client/case number and benefit numbers.

- II. **BATCH PROCESSING REPORTS.** The contractor shall propose a standard set of batch processing reports to be used by the Contractor and States to ensure the complete and accurate transfer of data during nightly batch processing. The reports shall support the following criteria:
- A. **BATCH CONFIRMATION MESSAGE** -- The contractor shall provide a confirmation message for all over night batch files received from States. The confirmation message shall contain summary verification data including the total number of records received in the batch and the number of records by record type (e.g., number of add, change and delete records).
 - B. **BATCH EXCEPTION REPORTS** -- The contractor shall provide a batch exception report for all batch files received by States. Batch exception reports shall contain a listing of all records received within a batch which were not processed by the Contractor. Each record included in an exception report shall have a corresponding reason code indicating the cause of rejection. In particular, duplicate case exception shall be clearly identified. Exception thresholds shall be defined by States. Account activity files exceeding exception thresholds shall be rejected in total by the Contractor.
- III. **SETTLEMENT REPORTS.** Daily and monthly settlement reports and report data shall be transmitted to States via batch processing. At a minimum, these reports shall include the following:
- A. **DAILY ACTIVITY REPORTS** -- The Contractor shall provide summary information on clients and terminal (merchant, ATM, third party, network, etc.) transaction activity.
 - B. **AUTOMATED CLEARING HOUSE (ACH) REPORTS** - The contractor shall provide detail and summary information on money movement initiated to settle client transaction activity (e.g., withdrawals and purchases).
 - C. **CLEARING REPORTS** -- The contractor shall provide detail and summary information on financial activity and money movement necessary between State and Federal agencies to settle client transaction activity (e.g., withdrawals and purchases).
- IV. **PROGRAM MANAGEMENT REPORTS.**
- A. **CONVERSION REPORTS** -- Some unique data requirements shall be necessary during the EBT system implementation. This data will be used by State staff to identify those clients on the EBT system or scheduled for conversion to the EBT system. Data elements to be included in the conversion reports include, but are not limited to: client name, account number, EBT client/case identifier, State number (PAN), card status (e.g., active, scheduled, awaiting training, awaiting card issuance or confirmation of receipt of card, etc.) benefit authorization amount, and benefit authorization availability date.
 - B. **FCS PILOT REPORTS** -- FCS pilot reporting requirements are defined in the FCS EBT Regulations. The FCS Pilot Reporting requirements shall be integrated in the Financial, Program and System reports required from the EBT system.
 - C. **PROGRAM PARTICIPATION DATA** -- The Contractor shall provide, by State and program, daily and monthly detailed and summary information on card and case activity. The data shall include, but is not limited to, the following:
 - 1. program participation data including total number of cases/cards, total amount of benefits expended or redeemed by day and month, coupon conversion activity and number and amount of inactive cases by period of inactivity (e.g., 30, 60, and 90 days);
 - 2. detailed benefit authorization information by case including authorization number, amount, availability date, date posted to EBT system and total outstanding benefit balance;

3. detailed and summary information including transaction type (e.g., denial, purchase, withdrawal, manual, or electronic), benefit type (i.e., Food Stamps or cash), date, time, amount, terminal number, terminal type (POs or ATM), retailer information including FCS authorization number for food stamp transactions, zip code, and net transaction amount by day.
 4. detailed and summary information on retailer, issuance site, and ATM participation status, including sites that are applying, active, or previously active and closed; and including owner names.
- V. SECURITY AND FRAUD REPORTS. The contractor shall support the data requirements of both Federal and State agencies responsible for ensuring the integrity and proper use of benefits to be distributed by the EBT system. The data requirements for security and fraud have been divided up into two categories: client/retail fraud and compliance and internal agency security.
- A. CLIENT/RETAIL FRAUD AND COMPLIANCE. The contractor shall work with States to define a periodic extract file for the investigation of recipient/retail fraud. Data requirements for this extract file include, but are not limited to, the following:
1. transaction data -- EBT Account number, State client/case number, retailer FCS authorization number, date, time, benefit type (Food Stamp or cash), transaction type (i.e., on-line, voice authorization, manual transaction, purchase, reversal, withdrawal, etc.)
 2. client statistics -- number of PIN attempts, number of card replacements, total number of transactions and number of manual transactions.
- B. INTERNAL AGENCY SECURITY. The EBT system shall provide for a variety of user security profiles to enable the States to manage user access to the EBT system. Reports on users, including name, status, and security profile, shall be available. In addition, the EBT system shall provide information on user activity to assist the States in the detection and investigation of internal fraud. This data shall be available daily and include, at a minimum, user identification information (e.g., name, security identification number or code, supervisor, and office location), the number of failed terminal log-on attempts for a given user identification number or code, and the number and type of terminal functions (e.g. authorization increases, cards issued/replaced, and expedited or emergency benefit issuances) processed during a terminal session (e.g., business day).
- VI. SYSTEM PERFORMANCE RESULTS. System performance reports shall be used by Federal and State agencies to monitor the operations and performance of the EBT system. Customer and Retailer Services operations, and the Automated Response Units. These reports shall provide statistical information on the system utilization and response time. Data to be provided include, but is not limited to, the following:
- A. Response Time Analysis -- Response time analysis information including a statistical summary of response time by merchant-terminal, ATM, third-party, and network acquirers, and for administrative terminal transactions.
 - B. Utilization Reports -- Utilization reports providing statistical information (i.e., capacity utilization) on daily and monthly patterns for the number and amount of transactions processed by card, case, merchant-terminal, ATM, third-party, and/or network, and administrative terminals.
 - C. System Availability -- To ensure compliance with the system availability requirements specified in this document, the FCS EBT Regulations, and the EBT operating rules, the Contractor shall provide a monthly report of the system availability, including detailed documentation and explanation of both scheduled and unscheduled downtime or processing interruptions.

- D. Transaction Activity Reports -- Daily and monthly statistical reports on transaction activity including the number and type of transactions requested and processed per hour, day, and month.
- E. Specialized Fraud and Abuse Reporting and Data Analysis System -- The purpose of this requirement is to create an environment where specialized fraud and abuse targeting, surveillance, detection and ad hoc reporting can be created via standard microcomputer database analysis software. The states will work with the Contractor to develop this requirement and outline a reasonable approach; the requirement shall include, but not be limited to, the following:
 - 1. Initial lists of data elements that shall be required (for example, name of owner of retailer/issuance site)
 - 2. Description and frequency of electronic transmission
 - 3. Method of transmission
 - 4. Contractor, upon request, shall prepare EBT transaction data for matching purposes with other state agencies.

VII. FCS REQUIREMENTS. The contractor shall meet the reporting requirements of the Food and Consumer Service. Data shall be transmitted to the FCS designated agency. FCS reporting requirement include as a minimum:

- A. MCSC Retailer Redemption Data. The Contractor shall provide detailed daily Food Stamp redemption data to the FCS Minneapolis Computer Support Center (MCSC) at least once per week. The data format and requirements of this file will be specified by FCS. At a minimum, data elements required in this file include:
 - 1. FSP retail merchant authorization number
 - 2. Date of Food Stamp redemption
 - 3. Total Daily amount of Food Stamp redemptions by retailer.
- B. FCS Compliance Investigations and Reporting. The contractor shall advise, and appropriately act to assist Federal agencies and the State in detection and investigations of abuses by stores, clients, or workers. This may entail cooperation with various authorities of both Federal and State agencies that are responsible for compliance with Food Stamp Program laws and regulations. Stores authorized by the Food and Consumer Service to accept Food Stamp Program benefits may become subject to monitoring and investigation by the State, Food Stamp Program Compliance Branch, USDA Office of the Inspector General, the Internal Revenue Service, Secret Service, or local law enforcement agencies. Clients are subject to investigation by the State program authorities and occasionally others. The State and these investigations by creating client cases, providing benefit access cards, and providing information.

Access to information concerning these matters shall be restricted both at the State and the Contractor so that the investigations are not compromised.

- C. Changes in Retailer Database. The Contractor shall transmit daily to MCSC information received from retailers that results in changes in the retailer database. This information shall include, but is not limited to, changes in ownership or bank account. The Contractor shall also accept daily transmissions from MCSC providing updates to the FCS retailer database. The Contractor shall be able to accommodate standard file formats to and from MCSC that are currently being tested by FCS. This will facilitate data exchange between FCS and the Contractor regarding retailer authorization and de-authorization. The file shall contain information regarding basic store identification and authorization status, withdrawals, disqualifications and rein-statements.

This provision shall be required when the capability is made available by FCS. During the interim, a suitable manual method for timely exchange between FCS and the Contractor shall be agreed upon.